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APPENDIX.

CASES CITED.

In the Supreme Court of the United States.

OCTOBER TERM, 1919.

CHARLES E. SMITH, PLAINTIFF,
v.
KANSAS CITY TITLE & TRUST COMPANY, et al., defendants.
No. 593.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DIVISION OF THE WESTERN DISTRICT OF MISSOURI.

BRIEF FOR THE UNITED STATES AS AMICUS CURIAE.

STATEMENT.

This case involves the constitutionality of the act of Congress approved July 17, 1916 (39 Stat. 360), as amended January 18, 1918, known as "the Federal farm loan act." The text of the act is printed in the appendix hereto attached, marked "Exhibit A."

The main question is whether Congress had the power to create (*a*) the Federal land banks, (*b*) the joint-stock land banks, and (*c*) to exempt the bonds which both classes of banks are authorized to issue from Federal, State, local, and municipal taxation.

This brief is filed by permission of the court by the United States as amicus curiæ because of the public interest in the questions involved.

THE FACTS.

The plaintiff is a stockholder in the defendant trust company and brought this action to restrain the defendant trust company from investing its funds in farm-loan bonds issued by Federal land banks and by joint-stock land banks. The grounds of the action as alleged in the bill are that there is no authority in the Constitution for the creation either of Federal land banks or of joint-stock land banks, and no power to authorize the issue of farm-loan bonds by either class of banks and further that the provisions contained in the act for the exemption of such bonds from Federal and State taxation are invalid and unconstitutional. The Federal Land Bank, of Wichita, Kans., and the First Joint-Stock Land Bank, of Chicago, Ill., petitioned to intervene and have been made parties defendant in the action on behalf of all the other Federal land banks and joint-stock land banks, respectively, as enumerated in the complaint. The United States also was heard as amicus curiæ in the action.

The cause came on to be heard and after oral argument the defendant's motion to dismiss the bill of complaint on the ground that it did not state facts sufficient to constitute a cause of action in equity was granted by the court, which, after delivering an oral opinion, dismissed the bill for want

of equity on October 31, 1919. On the same day the plaintiff filed a petition for appeal, which was allowed, and the assignments of error duly filed.

HISTORY OF THE FEDERAL FARM LOAN ACT.

Prior to 1913 there had been discussed for many years in Congress and throughout the country generally the necessity for a revision of the Federal banking and currency laws. While the movement was popularly and properly referred to as one of currency or monetary reform, it sought to achieve such result by dealing also with a reform of the general credit system of the Nation. Establishment of a system of credits which would be flexible and responsive to the needs of commerce and industry and as far as possible to the demands of the agricultural interests of the country, was imperatively demanded.

In 1913 Congress, at a special session, took under consideration what is known as the Federal reserve act, which, after protracted debate, became a law on December 23, 1913 (38 Stat. 251). In the course of the discussions of that measure the needs of agriculture and the necessity to consider them in connection with the financial system were brought forth with great impressiveness, but it was recognized that in the creation of a commercial credit system, which was the primary purpose of the Federal reserve act, it was not practicable to incorporate provisions suitable to the long-term credits of the character which the farmers needed.

Until the passage of the Federal reserve act, the national banks were not permitted by law to make loans upon real estate security. The congressional objection to this type of security seems to have been directed not against its sufficiency but against its kind. As the obligations of national banks, as well as those of other commercial credit institutions, are payable at short dates, it is necessary that the securities held by them shall be readily convertible into money; and while a mortgage on real estate may be good security, obviously it can not be made immediately available in case of an emergency. Personal securities of the kind usually taken by banks can be quickly assigned and promptly liquidated, but the transfer of any interest in real estate always involves more or less delay.

The total disability of the national banks to loan on real estate security was removed by the Federal reserve act. That statute authorizes national banks to loan on farm-land mortgages up to five years and on other real estate up to one year, subject, however, to the proviso that the aggregate of such loans by any one bank shall not exceed 25 per cent of its capital and surplus or one-third of its time deposits (sec. 24).

In dealing with the short-term credit needs of the farmer Congress authorized the Federal reserve banks to discount notes, drafts, or bills of exchange drawn or issued for agricultural purposes and having a maturity not exceeding six months. (Federal reserve act, sec. 13.) There is nothing

in this provision incompatible with the successful operation of a commercial credit bank and for this reason it has been availed of with considerable success by agricultural borrowers. The Federal reserve act also provided short-time credits to enable the farmer to carry his crop after harvest for a reasonable time by making notes, drafts, and bills of exchange secured by staple agricultural products eligible for rediscount by Federal reserve banks. (Federal reserve act, sec. 13.)

With respect to long-time loans, however, the situation is quite different. The relief afforded by the Federal reserve act was inadequate for three reasons: First, because of the incompatibility of long-term loans with commercial-credit institutions; second, because of the limited amount of money made available by the act for loans of this character; and, third, because the duration of such loans was limited to five years. The fact that after the passage of the Federal reserve act the national banks were permitted to make loans on real estate security did not in itself make such loans attractive or desirable; nor did it, of course, remove the unliquid character of real estate security. Moreover, the amount of money which the act permitted any national bank to lend upon this character of security was expressly limited to 25 per cent of its capital and surplus or one-third of its time deposits. In connection with this feature, Senator Fletcher, speaking on the floor of the Senate, said

(Congressional Record, p. 3547, 64th Cong., 1st sess.):

> If every national banking association so authorized took advantage of this privilege, there would only be available for farm loans not exceeding $450,000,000 for the entire country, whereas the outstanding farm mortgages now amount to over $2,000,000,000.

Finally, it is obvious that loans of only five years' duration are wholly inadequate to take care of the needs of any but the most prosperous farmers. Many agricultural investments require more than five years in which to fructify, even under the most favorable conditions. This is particularly true in the fruit-growing industry. Even in other branches of agriculture, where under ordinary circumstances the original investment may be recouped within five years, there are always crop failures, frequently due to causes beyond the farmer's control, to be reckoned with. (Senate Rept. No. 144, 64th Cong., 1st sess.)

It thus appears that while prior to the passage of the Federal reserve act the national banks had neither the power nor the inclination to make long-term loans on farm land security, after the passage of the act they had partial power but still no inclination.

The farmers were under similar difficulties with respect to obtaining loans from State banks. While there has been no general legal inhibition against

these banks making loans upon real estate security, still as a practical matter, such loans have been no more practicable for State banks than for national banks. Even mutual savings banks have shown a similar disinclination to make long-term loans to the farmers. (Senate Report 144, 64th Congress, 1st sess.) Generally speaking, the farmers have had to do their borrowing from so-called mortgage bankers with whom their experience has been anything but satisfactory. Statistics gathered by the Department of Agriculture and incorporated in the report of the Senate Finance Committee, show that the rate of interest upon land mortgages varied in different sections over the country, the average by States ranging from 5.3 to 10.5 per cent, the average rate for the whole country being about 7.5 per cent. A tabulation of these statistics is printed in the appendix hereto and marked "Exhibit C." While it is true that the farmers have the protection of the usury laws of the various States, experience has shown that these laws, because of the exaction of commissions, fees, etc., by the lenders, have never afforded complete relief. The statistics just referred to, showing the average interest rates actually charged the farmer, are eloquent testimony of the fallibility of the usury laws.

In addition to having to pay high rates of interest the farmers of the country have never been able to obtain loans of sufficient duration to permit them to reasonably amortize their debts. Nor has there been an adequate credit market for farmers desir-

ing to make long-term loans and especially for farmers desiring to borrow amounts of less than $1,000. The effect of this was distinctly retarding to the development of agriculture.

Farming is the greatest industry in the United States. The value of our farm products for 1910 (the last year in which the national census was taken) exceeded $9,000,000,000. Their value for 1919 is estimated by the Secretary of Agriculture to be $23,873,000,000, or an increase of 158 per cent. (Report of Secretary of Agriculture for 1919.) The productive land of the Nation as of the year 1910 was put at 878,789,000 acres, or 46 per cent of the total acreage of the country (1,903,269,000), of which the amount actually cultivated was only 293,794,000, or about 15 per cent of the total acreage. (1910 Agri. Census.)

The agricultural population in the year 1910 amounted to 12,567,925, or 32 per cent of all persons of the country engaged in business. The aggregate wealth of the farmers was $40,991,490,090, and their total indebtedness was estimated at $6,000,000,000, approximately one-half of which was secured by mortgages.

The ability to secure capital upon reasonable terms is essential to the success of any business, and farming is especially embraced within the rule. The successful farmer becomes more of a business man each year. He must use more machinery, buy more fertilizer, and sow better seed. He must erect better buildings, raise better stock, and grow better crops. He must store his produce

in order to sell in the high market; he must pay cash in order to buy cheap. In addition, he requires capital for additions and betterments. So it was that prior to the passage of the Federal farm loan act the farmers of the country, though engaged in its greatest industry and needing credit quite as urgently as those engaged in other industries, yet were unable to secure an adequate supply and to obtain it at anything like the same rate or even reasonable rates of interest. The position of the farmer was thus summarized by Senator Hollis in the report of the Senate Finance Committee (Senate Rept. No. 144, 64th Cong., 1st sess.):

> The farmer applies to the nearest bank for a loan and offers his farm as security. The banker makes excuses. He doesn't know the farmer; he doesn't know the value of his farm; he doesn't like to tie his demand deposits up in long-term loans; his commercial customers, who carry a substantial line of deposits, have the first claim. These excuses are well founded.
>
> There may be additional excuses not so genuine, such as the scarcity of money, the hard hearts of the directors, unusual demands for loans, and the like. If the farmer gets a loan at all, he pays a high rate or he must be subject to foreclosure on short notice. He usually pays some one a large commission; he is subject frequently to substantial renewal fees; he is sometimes compelled to pay taxes on the mortgage as

well as on the land; and he finds himself in the power of some hard-headed banker. He can not complain of this; it is the business of the banker to be hard-headed.

In many parts of the country the farmer is charged extortionate and inexcusable rates of interest, regardless of usury laws and a decent regard for human necessities. He has a real grievance here.

But, continues Senator Hollis:

The American farmer does not come to Congress with a hard-luck story. He does not ask the Government to bestow on him the public money that all the people have contributed in taxes. He does not demand that the Government become a banker in order to borrow money on bonds and loan the proceeds to him. He merely calls attention to the fact that farming has become a business demanding large amounts of capital; he points out the undoubted excellence of the security he offers; and he demands legislation that shall put it in the power of those who are interested, and those who have money to invest, to extend to him the credit he requires. *He desires the Government to authorize a system of land banks which shall duplicate for him the facilities now commanded by men engaged in manufacturing, in transportation, and in commerce.*

Our failure to make proper provision for a rural credits system has undoubtedly left its mark upon the agricultural development of the country.

Great as that development has been, nevertheless statistics presented to Congress show that while from 1850 to 1880 the agricultural population had more than kept pace with the total population, it had on the whole failed to do so since 1880. (Abstract of the Census, 1910, p. 280.) Between 1900 and 1910 the total population of the United States increased 21 per cent; the urban population increased 34.8 per cent, and the rural population increased only 11.2 per cent. In 1880 the rural population of the United States was 70.5 per cent of the whole, while in 1910 it was only 53.7 per cent. The tenant farmers in 1880, constituting 25 per cent of the total, in 1910 had increased to 37 per cent. These statistics, which were submitted to the Senate by Senator Fletcher, are prinetd in the appendix hereto marked "Exhibit D."

Strikingly different from the situation existing in our own country was that found to exist in the countries of continental Europe. Exhaustive data on this subject was collected by the American and United States commissions, appointed to investigate European rural credit systems, and is available in printed form in Senate Document No. 214. It is sufficient for present purposes to state that the report referred to discloses that in every progressive country of Europe there have been in existence for many years banks or similar institutions which make a business, under Government supervision, of affording credit upon reasonable

conditions to the agricultural population of these countries. A summary of the rural situation in foreign countries is included in the appendix marked "Exhibit E."

It became imperative, therefore, that, in addition to the short-time agricultural credits provided by the Federal reserve act, long-time amortization mortgage loans or credits should be provided for the stimulation and development of agriculture—the very basis of the general welfare—and the Federal farm loan system was created by Congress to meet this national need.

ANALYSIS OF THE FEDERAL FARM LOAN ACT.

The Federal farm loan act approved July 17, 1916, is entitled "An act to provide capital for agricultural development, to create standard forms of investment based upon farm mortgage, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create Government depositaries and financial agents for the United States, and for other purposes."

The first purpose of the act was to develop agriculture by affording to those engaged in farming or who desired to engage in that occupation a much greater volume of land credit on more favorable terms and at materially lower and more nearly uniform interest rates than were previously available.

The act provides for two general types of organizations—one in its nature mutual or cooperative

and the other privately controlled, or, as designated in the act, "joint stock." The cooperative system is designated as the Federal land bank system and the other as the joint-stock land bank system. The Federal Farm Loan Board has general supervision over the entire farm loan system. The members of this board are five in number, including the Secretary of the Treasury, who is a member and chairman ex officio, and four members to be appointed by the President, with the advice and consent of the Senate. This board is authorized to appoint appraisers, examiners, and registrars who are public officials (sec. 3).

The United States is divided into 12 farm loan districts, each having a Federal land bank with a subscribed capital of not less than $750,000 (secs. 4, 5). These banks are located in the following cities:

Springfield, Mass.; Baltimore, Md.; Columbia, S. C.; Louisville, Ky.; New Orleans, La.; St. Louis, Mo.; St. Paul, Minn.; Omaha, Nebr.; Wichita, Kans.; Houston, Tex.; Berkeley, Calif.; and Spokane, Wash. (See First Annual Report of the Federal Farm Loan Board, 65th Cong., 2d sess., H. Doc. No. 714, 1029.)

The capital stock of these banks was first offered for public subscription. Thereafter, the authorized capital not so taken was subscribed by the Secretary of the Treasury for the United

States (sec. 5). The amount of this governmental subscription was $8,892,130.

The purpose of the provision compelling governmental subscription was to provide funds for the initiation of the new system (sec. 5). Provision is made for the retirement of the stock of the Government so that in due course the capital of the Federal land banks will all be privately owned. Already $626,321 of the stock taken by the Secretary of the Treasury has been paid off and retired.

The management of each bank is intrusted to a board of nine directors, three of whom are selected by the Federal Farm Loan Board, and six of whom are selected by the national farm loan associations (sec. 4).

These associations are local associations of borrowers established in order to secure intimate touch for borrowers who are desirous of obtaining loans with the land banks. Ten or more persons desiring loans on farm land may join to form these associations. They do not conduct a banking business, and their operations are very simple. They admit members who desire to borrow. Their directors (five or more in number) and loan committees pass upon the value of the farm-land security and the character of the borrower. Every borrower must take stock in a farm-loan association to the amount of 5 per cent of his loan. This amount is, in turn, subscribed by the association to

the stock of the Federal land bank. Thus, through interlocking stockholding, the borrowers become in effect the proprietors of the lending institution. In addition, the farm-loan associations indorse all mortgages secured by them for land banks and are liable to the land banks on their indorsements; shareholders in every farm-loan association are individually responsible for all the debts of the association to the extent of double the amount of stock subscribed by each, which will in no case exceed 10 per cent of the amount of any individual loan (secs. 9 and 11).

Owners or prospective owners of farm lands may become members of these associations (sec. 7).

It is through these associations that steps are taken to obtain loans. They are fully set out in the act. (Appendix, Exhibit A.)

The act also prescribes for the mortgages securing such loans and for the purposes for which such loans can be made. These are such as directly promote agriculture. (Secs. 10–12.)

Federal land banks are authorized to issue their obligations, to be known as farm-loan bonds, to an amount equal to twenty times their capital (sec. 18). All issues of such bonds must be approved by the Farm Loan Board (sec. 14). It is from the sale of these bonds that the banks will be enabled to secure the funds to loan to farmers after their original capital has been expended for this purpose. If they succeed in marketing their bonds, as, for

example, with interest at 5 per cent (sec. 20), loans to farmers from the proceeds of the sale of the bonds can not be made at a higher rate than 6 per cent (sec. 12). As the success of the entire system thus depends upon the marketability of the farm-loan bonds, they are declared to be instrumentalities of the United States and as such are exempt from all species of Federal and State taxation (sec. 26).

These bonds are amply secured as set forth in the act. (Secs. 19, 21, 9, 11, 12.)

The farm-loan bonds of the Federal land banks are lawful investments for all fiduciary and trust funds and may be accepted as security for all public deposits. They may, furthermore, be purchased by banks of the Federal reserve system (sec. 27).

The universal experience of foreign countries has demonstrated that profit-seeking organizations engaged in the farm-mortgage business have firmly established themselves even where cooperative associations are strongest and most prosperous. These companies have developed and prospered side by side and in competition with the cooperative societies. It is manifest, therefore, that they render useful service to agriculture in those countries. Accordingly, the act authorized the formation of such organizations, known as joint-stock land banks, whose capital is derived wholly from private subscription. They must begin business with

a minimum paid-up capital of $250,000. Their operations are confined to the territory of a single State or a State contiguous to one in which its principal office is located. They can not engage in any business other than making farm-mortgage loans and issuing bonds. The same limitations as to the rate of interest which may be charged by Federal land banks apply as well to the joint-stock land banks. The latter class of banks, however, may loan to persons who are neither owners nor prospective owners of farm lands (but loans must be secured by mortgages on farm lands), and there are no restrictions as to the purposes for which the proceeds of the loans may be used by the borrowers. Furthermore, there is no maximum nor minimum amount prescribed for their loans to any one borrower and they can thus provide for the larger amounts of credit needed by those farming on a large scale. They are authorized to issue their bonds to the amount of fifteen times their capital and surplus; and their stock carries a double liability similar to the stock of national farm-loan associations (sec. 16).

The Farm Loan Board undertook to limit the amount of joint-stock loans to individuals under the power conferred upon it by the act to approve the bonds issued by joint-stock banks. The board has refused to approve bonds based on loans in excess of $50,000 to one individual or borrower. (Farm loan act, sec. 17, Regulations of Farm Loan Board, dated July, 1919, p. 12.)

Every bond issued by joint-stock land banks is secured as follows:

(1) By the capital, reserves, and earnings of the land bank which issues it.

(2) By the double liability of the stockholders (sec. 16).

(3) By the collective security of all the mortgages pledged and segregated with the farm-loan registrar, which must at least equal in amount the outstanding bonds unless replaced by United States bonds or cash (sec. 19).

Farm-loan bonds of the joint-stock land banks are also exempt from all Federal and State taxation.

The following exemptions from all Federal, State, and municipal and local taxation are contained in the act (sec. 26):

(1) The capital, reserve, and surplus and income derived therefrom of Federal land banks and national farm-loan associations except taxes on real estate held by said banks or associations.

(2) First mortgages executed to either Federal land banks or joint-stock land banks and farm loan bonds issued by either class of such banks under the provisions of the act.

As one of the purposes of the act was to provide a low and equalized rate of interest to farmers, these exemptions were necessary, for if the mortgages held by the banks and farm loan bonds issued by them were subject to taxation

it would be necessary to pay a greater rate of interest to the bondholders which in turn would raise the interest rate to the farmers.

It is clear that the act is designed:

First. To furnish a market for United States bonds and to create Government depositaries and financial agents for the United States. To this end the act provides that both classes of banks when designated for that purpose by the Secretary of the Treasury shall be depositaries of public money, and they may be also employed as financial agents of the Government, performing all such duties both as depositaries and financial agents as may be required of them (sec. 6). Furthermore, both classes of banks are authorized to buy and sell United States bonds and to use them as collateral security for their own bonds in lieu of mortgages (sec. 19) and mortgage amortization payments may also be invested in United States bonds (sec. 22).

Second. To extend the financial system of the United States to agricultural credits and to promote the general welfare by promoting agriculture. The system of associations and farm loans are machinery to accomplish this purpose.

By the amendment of 1918, the Secretary of the Treasury was authorized to make deposits for the temporary use of any Federal land bank, not in excess of $6,000,000 at any one time. The Secretary of the Treasury was also authorized

upon the request of the Federal Farm Loan Board during the fiscal years ending June 30, 1918 and 1919, respectively, to purchase from any Federal land bank, farm loan bonds issued by any such bank not in excess of $100,000,000 in either of such years.

ARGUMENT.

I.

Congress had power to create the Federal land banks and the joint-stock land banks.

(A) The Federal land banks and the joint-stock land banks were constitutionally created as fiscal agents of the Government.

The purpose of the Federal farm loan act as disclosed in its title is twofold:

I. (*a*) To furnish a market for United States bonds, and

(*b*) To create Government depositaries and financial agents for the United States.

II. (*c*) To provide capital for agricultural development,

(*d*) To create a standard form of investment based on farm mortgages, and

(*e*) To equalize rates of interest on farm loans.

In carrying out the first purposes (*a*) and (*b*) the banks act as depositaries and agents of the United States and in a public or quasi-public capacity. In carrying out the second purposes (*c*), (*d*), and (*e*), it is believed that the capacity

in which they act is also public, and this will be demonstrated later. However, for the purpose of considering the functions of these banks as fiscal agents of the Government it will be assumed that their functions with regard to rural credits may be partially of a private character. The first question for determination, then, is whether it is within the power of Congress to create corporations which, besides being agencies of the Government, are invested with purely private functions.

Congress has no express power, under the Constitution, to create a corporation. It has, however, the power "to make all laws which shall be necessary and proper for carrying into execution" its express or implied powers. (Art. I, sec. 8, subdivision 18.) Among its express powers are those to collect taxes (Art. I, sec. 8, sub. 2), to borrow moneys (Art. I, sec. 8, sub. 2), and, by necessary implication, to care for and administer funds acquired through the exercise of these powers or required to exercise these powers. Congress, therefore, may establish corporations as a necessary and proper means of facilitating the credit of the General Government and of caring for, disposing of, and administering public funds. Furthermore, the means need not be necessary in the sense of being indispensable; it is sufficient if they are appropriate, and whether or not they are appropriate is properly a legislative question. These principles

have been settled since the decision of *McCulloch v. Maryland*, 4 Wheaton 316, and are not open to question. It was urged by counsel for the State of Maryland that the United States had no power to charter a bank or any other corporation. This court held otherwise, Marshall, C. J., saying (p. 411):

> The power of creating a corporation is never used for its own sake, but for the purpose of effecting something else. No sufficient reason is therefore perceived why it may not pass as incidental to those powers which are expressly given if it be a direct mode of executing them.

The court said again (p. 422):

> If a corporation may be employed indiscriminately with other means to carry into execution the powers of the Government, no particular reason can be assigned for excluding the use of a bank, if required for its fiscal operations. To use one, must be within the discretion of Congress, if it be an appropriate mode of executing the powers of the government. That it is a convenient, a useful and essential instrument in the prosecution of its fiscal operations, is not now a subject of controversy.

Having the undisputed power thus to create corporations as depositories and financial agents of the Government, it is also settled that Congress may, as incidental to their creation, clothe them

with private banking powers. The first and second banks of the United States were such corporations. (See acts of Feb. 25, 1791, and Apr. 10, 1816.) In addition to acting as fiscal agents for the Government they were authorized to conduct a general private banking business. While the validity of the first bank was never challenged in the courts, that of its successor was twice passed on by this court and twice upheld. (*M'Culloch* v. *Maryland*, supra, and *Osborn* v. *Bank of the United States*, 9 Wheaton, 738.) In the latter case the private powers of the bank were especially scrutinized, and were held constitutional as being essential to the proper performance of its public functions. The court was urged to reconsider its decision in the Maryland case. It reexamined the whole subject with care, adhered to its doctrines therein announced, and held the Ohio act also unconstitutional. In answer to the contention that the bank, when performing private functions, could not be considered a Government agency exempt from State taxation, Chief Justice Marshall said (p. 860):

> It (the bank) is not an instrument which the Government found ready made, and has supposed to be adapted to its purposes; but one which was created in the form in which it now appears, for national purposes only. It is undoubtedly capable of transacting private as well as public business. While it is the great instrument by which the fiscal

> operations of the Government are effected, it is also trading with individuals for its own advantage.

Referring further to its private functions, the Chief Justice said (p. 864):

> Congress was of opinion that these faculties were necessary to enable the bank to perform the services which are exacted from it, and for which it was created. This was certainly a question proper for the consideration of the National Legislature. But, were it now to undergo revision, who would have the hardihood to say that without the employment of a banking capital, those services could be performed? That the exercise of these faculties greatly facilitates the fiscal operations of the Government is too obvious for controversy; and who will venture to affirm that the suppression of them would not materially affect those operations, and essentially impair, if not totally destroy, the utility of the machine to the Government?

And again (p. 865):

> The court has already stated its conviction that without this capacity to trade with individuals the bank would be a very defective instrument, when considered with a single view to its fitness for the purposes of Government.

It is clear, therefore, that a banking corporation created by Congress may be vested, in addition to its powers to perform public functions, with powers

of a private nature, which may be used for its own advantage.

A more striking illustration is afforded by the national banks. They are supported entirely by private capital and are endowed with "all such incidental powers as shall be necessary to carry on the business of banking" (see Revised Statutes, sec. 5136), powers similar to those possessed by State banks. (See act of June 3, 1864.) On the other hand, when so designated by the Secretary of the Treasury, but only when so designated, they shall be depositories of public funds, and they may also be employed as financial agents of the Government. (Revised Statutes, 5153, as amended.) But notwithstanding the grant of private banking powers and the fact that the national banks generally perform only private functions, the constitutionality of the act creating them has been frequently affirmed, and is no longer open to question.

The leading case affirming this constitutionality is *Farmer's National Bank* v. *Dearing*, 91 U. S., 29. This was an action of debt by a national bank in the State of New York. The defendants pleaded usury, which by the New York statute forfeited the entire debt. The national bank act provided that the penalty for usury as respects these banks should be merely a forfeiture of the interest. The court held that the New York usuary law could not be applied to the national

banks, since it was inconsistent with the provisions of the national bank act.

The court said (p. 33):

> The national banks organized under the act are instruments designed to aid the Government in the administration of an important branch of the public service. They are means appropriate to that end. Of the degree of the necessity which existed for creating them Congress is the sole judge. Being such means, brought into existence for this purpose, and intended to be so employed, the States can exercise no control over them, nor in any wise affect their operation except in so far as Congress may see proper to permit.

See also *Easton* v. *Iowa,* 188 U. S., 220, in which the court said (p. 238):

> Our conclusions upon principle and authority are that Congress having power to create a system of national banks is the judge as to the extent of the powers which should be conferred upon such banks and has the sole power to regulate and control the exercise of their operations;

These conclusions have been recently reaffirmed in equally conclusive language in the case of *First National Bank* v. *Union Trust Company,* 244 U. S. 416.

In 1913 Congress passed the Federal reserve act, giving national banks power to act as trustee, executor, administrator, or registrar of stocks and

bonds. (Act of Dec. 23, 1913, sec. 11–K.) The validity of this section was attacked in *First National Bank* v. *Union Trust Company,* supra. This was an action of quo warranto, brought in a State court against the defendant national bank, seeking to have section 11–K of the Federal reserve act declared unconstitutional, counsel urging that a national bank had no power to exercise such functions. The Supreme Court of Michigan decided that section 11–K was unconstitutional. This decision was, however, reversed by this court on the authority of *M'Culloch* v. *Maryland* and *Osborn* v. *Bank,* supra, the Chief Justice declaring it to be erroneous (p. 424).

> Because while in the premise to the reasoning the right of Congress was fully recognized to exercise its legislative judgment as to the necessity for creating the bank, including the scope and character of the public and private powers which should be given to it, in application the discretion of Congress was disregarded or set aside by exercising judicial discretion for the purpose of determining whether it was relevant or appropriate to give the bank the particular functions in question.

Referring to the McCulloch and Osborn cases, the court said (p. 425):

> What those cases established was that although a business was of a private nature and subject to State regulation, if it was

> of such a character as to cause it to be incidental to the successful discharge by a bank chartered by Congress of its public functions, it was competent for Congress to give the bank the power to exercise such private business in cooperation with or as part of its public authority.

This case, therefore, lays down the principle that Congress has power to confer upon a national bank functions of a wholly private nature; moreover, the judgment of Congress, and not that of the courts, is decisive in considering whether the exercise of such functions is incidental to the successful discharge by the bank of its public functions. It should be borne in mind that all these agencies would be a heavy charge on the Government if not permitted to engage in private business along with their public functions.

It may perhaps be doubted whether Congress could lawfully charter a corporation, designate it as a fiscal agent of the Government, and authorize it to carry on a business wholly unrelated to the performance of its duties as such fiscal agent. But in the present inquiry it is unnecessary to determine the limits, if any, of the discretion of Congress in such a case. The private functions conferred upon the Federal and joint-stock land banks by the Federal farm loan act can not be considered to be so unrelated to their public functions as to make their creation an abuse of

discretion on the part of Congress. If commercial banking powers are appropriate to the performance of the duties of a financial agency it is no less true that agricultural banking powers are equally appropriate. Furthermore, it is difficult to see why an agricultural credit institution is not as well equipped to handle Government funds as a commercial credit institution, or perhaps even better, as its business is less hazardous. At any rate, it is clear that the case is not one in which the courts would be warranted in substituting their own judgment for that of Congress.

The Federal reserve act, as amended by the act of September 7, 1916, gives to national banks the power (not theretofore possessed by them) to loan on farm lands and other real estate security. The validity of this provision has not been challenged, nor could it well be in the face of the decision in *First National Bank* v. *Union Trust Company, supra.*

Section 6 of the Federal farm loan act provides that all Federal land banks and joint-stock land banks, when designated for that purpose by the Secretary of the Treasury, shall be depositaries of public money, except receipts from customs; that they may also be employed as financial agents of the Government; and that they shall perform all such reasonable duties as depositaries of public money and financial agents of the Government as may be required of them. These are indisputably

public functions. It is also to be noted that the language of this section is substantially similar to that of Revised Statutes, section 5153, supra, which authorizes national banks to act as depositaries and financial agents of the Government. Indeed, it is clear that the whole Federal farm loan system closely follows in its provisions and operations the national banking system. Both the national banks and the land banks are vested with public functions; that is, both are authorized to act as depositaries and financial agents of the Government. In addition, the national banks are empowered to do a general banking business, including the lending of money on real estate security and the administering of trust funds, while the land banks are empowered to do a limited banking business only. The only distinction is in the scope of the private functions. The national banks, viewed in their private aspect, are commercial credit institutions; the land banks are agricultural credit institutions with more limited banking powers than the national banks.

The fact that the Government is forbidden to subscribe to the capital stock of the joint-stock land banks becomes immaterial when it is remembered that there is no provision for Government subscription to the stock of the national banks. Indeed, while the Government is permitted to subscribe and has already subscribed very largely to the stock of the Federal land banks, this transaction is merely

for the purpose of initiating the operation of the system and will eventually, under the provisions of the act, be repaid and these banks supported entirely by private capital.

If but few of the Federal land banks and none of the joint-stock land banks have been designated as depositaries or financial agents of the Government it is owing to their recent organization and entirely immaterial. It is equally true that there are numerous national banks which have never been so designated, yet there is no doubt of the validity of their creation. It is the existence of the power to designate, not its exercise, which is controlling.

The banks also perform important functions in creating a market for United States bonds. On September 30, 1919, the Federal land banks were the owners of United States bonds of a par amount of $4,230,805, and the joint-stock land banks were the owners on August 31, 1919, of United States bonds of a par amount of $3,287,503. (Bill of Complaint, p. 9.)

This Federal land bank system does in fact constitute and was intended to constitute an important addition to the fiscal agencies of the Government. This, of itself, is sufficient to uphold the validity of the act, even though the other provisions of the system may have been for different purposes. The question whether the fiscal purpose of the act is primary or secondary is not one for judicial determination. The act constituting the

exercise of a lawful power, the motives which led Congress to exercise that power will not be inquired into by the courts.

This is shown by the case of *McCray* v. *United States*, 195 U. S. 27, a prosecution for the violation of certain revenue acts. The appellant claimed that the real purpose of the act was not to obtain revenue, but to prohibit the sale of oleomargarine, which he claimed was not within the power of Congress. The court, however, held that the revenue provisions were sufficient to uphold the act, and said (p. 56):

> The decisions of this court from the beginning lend no support whatever to the assumption that the judiciary may restrain the exercise of lawful power on the assumption that a wrongful purpose or motive has caused the power to be exerted.

In *Doyle* v. *Continental Insurance Co.*, 94 U. S. 535, a case which upholds a State statute providing for the revocation of a license of a foreign corporation which should remove any suit brought against it to the Federal court, although it would be unconstitutional to directly prohibit such removal, the court said (p. 541):

> If the State has the power to do an act, its intention or the reason by which it is influenced in doing it can not be inquired into.

In *Red C. Oil Co.* v. *N. C.*, 222 U. S. 380, a State inspection law which provided for a small

charge was attacked on the ground that the real purpose was revenue, not inspection. The court, in dismissing this contention, said (p. 392):

> We can not lightly attribute improper motives to the law-making power.

Florida Central R. R. Co. v. *Reynolds*, 183 U. S. 471, sustains a State "delinquent tax" on railroads The court said (p. 480):

> We must assume that the legislature acts according to its judgment for the best interests of the State. A wrong intent can not be imputed to it.

Ellis v. *United States*, 206 U. S. 246, was a prosecution for violation of a Federal law limiting the hours of labor on public works. The constitutionality of the law was attacked, but was sustained by the court, Justice Holmes, speaking for the court, saying (p. 256):

> It is true that it (i. e., Congress) has not the general power of legislation possessed by the legislatures of the States, and it may be true that the object of this law is of a kind not subject to its general control. But the power that it has over the mode in which contracts with the United States shall be performed can not be limited by a speculation as to motives.

These quotations are not stated with any idea that the other, and possibly more important, purpose of Congress in enacting the Federal farm-loan act was improper. Indeed, as will presently be in-

sisted, the act would be constitutional if the Federal land banks were not made fiscal agents of the Government and were designated solely to facilitate rural credits.

(B) The act is a constitutional exercise of the appropriation power of Congress.

The Federal farm-loan act is not a police measure, nor is it regulative or administrative in character. It imposes no restraints upon the rights of the people or of the States. It in no way interferes with the jurisdiction of the States. It creates no crimes or offenses except with respect to its own machinery and operation. What the act purports to accomplish, in addition to the purposes just presented, is to facilitate the borrowing of money on farm-land mortgages, and to this end it has set up a system of banks which offer certain privileges to the people. These privileges may be availed of or not as the people see fit. It may be well said of this act what was said by Alexander Hamilton of the act creating the first bank of the United States:

> It has been usual, as an auxiliary test of constitutional authority, to try whether it abridges any preexisting right of any State or any individual. The proposed measure will stand the most severe examination on this point. Each State may still erect as many banks as it pleases. Every individual may still carry on the banking business to any extent he pleases.

The act, therefore, is not to be classified with remedial legislation, such as the act to regulate commerce or the food and drugs act, but rather with such statutes as those which created the Department of Agriculture, the Bureau of Education, the Smithsonian Institution, the Bureau of War Risk Insurance, and the vocational rehabilitation fund. Statutes of the latter class, which are not in any sense remedial or police measures, can be challenged if at all only on the ground that they involve an illegal appropriation and expenditure of public funds. It is from this standpoint alone that a citizen can claim sufficient interest to justify a constitutional contest.

(1) Congress may appropriate public funds for the general welfare of the United States.

Article 1, section 8, sub 1, of the Constitution authorizes Congress:

> To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States.

The only limitations on the power thus granted are those as to uniformity and apportionment and the inhibition as to the taxation of exports. Subject only to these limitations, the taxing power of Congress is plenary, and is not in any way limited to those subjects which Congress may regulate or administer. (*McCray* v. *U. S.*, 195 U. S. 27; *Veazie* v. *Fenno*, 8 Wall. 533.)

There is, of course, the requirement that the purpose of the taxation be for the "common defense" or "general welfare." (*U. S.* v. *Gettysburg Elec. Ry. Co.*, 160 U. S. 681.)

Coextensive with the power of tax and derived from the same clause of the Constitution is the power to expend or appropriate public funds. Here again Congress is not limited to those subjects mentioned in its enumerated powers. (Willoughby on the Constitution, sec. 269.) Indeed, the only limitation is that an appropriation must relate to the common defense or to the general welfare. As said by President Monroe:

> My idea is that Congress have an unlimited power to raise money, and that in its appropriation they have a discretionary power restricted only by the duty to appropriate it to purposes of common defense and to general, not local, national, not State, benefit. (Views of the President of the United States on the subject of internal improvements, May 4, 1822.)

To the same effect is the following extract from Alexander Hamilton's Report on Manufactures (Dec. 5, 1791):

> The power to raise money is plenary and indefinite, and the objects to which it may be appropriated are no less comprehensive than the payment of the public debts and the providing for the common defense and general welfare.

The phrase "general welfare" is one of the broadest scope and signification. In the opinion

of President Monroe no more comprehensive words could have been used. (Paper of President Monroe, supra.)

And according to Mr. Hamilton:

> The only qualification of the generality of the phrase in question which seems to be admissible is this: That the object for which an appropriation of money is to be made be general and not local; its operation extending in fact or by possibility throughout the Union and not being confined to a particular spot.

(2) Assistance to agriculture pertains to the general welfare.

The earliest authority on this subject, and a most persuasive one because of his activity in connection with the framing and adoption of the Constitution, is Alexander Hamilton, who on December 5, 1791, wrote:

> It is, therefore, of necessity, left to the discretion of the National Legislature to pronounce upon the objects to concern the general welfare and for which, under that description, an appropriation of money is requisite and proper. There seems to be no room for a doubt that whatever concerns the general interest of learning, of *agriculture*, of manufactures, and of commerce, are within the sphere of the national councils, as far as regards an application of money. (Report on Manufactures.)

The views of Mr. Hamilton have uniformly been sustained by the courts in a number of decisions

involving the question whether the exercise of the taxing, eminent domain, or appropriation powers of a State are for a public purpose. These decisions are in point because obviously legislation which has a public purpose must be for the general welfare, and vice versa.

O'Neil v. *Leamer*, 239 U. S. 244. (Drainage.)

Fall Brook Irrigation District v. *Bradley*, 164 U. S. 112. (Irrigation.)

Clark v. *Nash*, 198 U. S. 261. (Rights of way for irrigation.)

Mitchel v. *Burlington*, 4 Wallace 270, and *Larned* v. *Burlington*, 4 Wallace 275. (Roads and bridges.)

Burlingon v. *Beasley*, 94 U. S. 310. (Construction of public gristmill.)

Spaulding v. *Lowell*, 23 Pick (Mass.) 71. (Public market.)

North Dakota v. *Nelson County*, 1 N. Dak. 88. (Seed grain barns.)

State v. *Robinson*, 35 Nebr. 401. (County fairs.)

Daggett v. *Goldran*, 92 California 53. (Agricultural exhibitions.)

It is not believed that the contention will seriously be advanced that a general system for aid to farmers, in order to promote agriculture, is not a public purpose. In this connection it should be noted that pursuant to the authority contained in the amendment of 1918 the Secretary of the Treasury has purchased farm-loan bonds issued by Federal land banks of a par amount of $149,-

775,000, of which a par amount of $136,885,000 was still held in the Treasury of the United States on July 1, 1919. This is in effect a direct appropriation through the subscription to the obligations of these banks.

It must be remembered that the discretion of the legislature as to what constitutes a public use or what pertains to the general welfare is controlling on the courts unless purely arbitrary in character and without even reasonable foundation. The rule is thus stated in Cooley on Taxation (3d ed., pp. 188, 189):

> It is otherwise with the Federal Union also; for though its powers are not general like those of the State, but are limited and defined by the Federal Constitution, yet as they concern the most important matters of government and relate to subjects not of domestic concern merely, but of international intercourse, and to other matters which sometimes require broad and comprehensive views, and make a policy of liberal expenditures wise and statesmanlike, it would be neither reasonable nor prudent to subject its action in the matter of taxation to critical rules. That which it decides to be an object of public expenditure must generally be so accepted, and error in its action must be corrected by discussion and through public opinion and the elections.

Similarly, in *United States* v. *Gettysburg Electric Railway Company*, 160 U. S. 668, it is said (p. 680):

> When the legislature has declared the use or purpose to be a public one, its judgment will be respected by the courts, unless the use be palpably without reasonable foundation.

Under the principles thus laid down it need only be shown that Congress did not reach a purely arbitrary conclusion in determining, by the passage of the farm loan act, that the development of agriculture relates to the general welfare. For reasons already stated, such a proposition is self-evident. Furthermore, it can not be said that the determination of Congress was made hastily or without due deliberation. As the history of the act shows, the whole matter was before that body for more than two years before its final passage and all its phases were thoroughly discussed, both in hearings before various committees and on the floors of both Houses. Indeed, it may well be said of this act what Chief Justice Marshall said of the act incorporating the second United States bank, that it "did not steal upon an unsuspecting legislature and pass unobserved." (*McCulloch* v. *Maryland*, supra, p. 402.)

It need only be added that the act under consideration is national in scope and is not limited either as to operation or effect to any particular locality. It thus meets the constitutional test laid down by Alexander Hamilton, supra.—

> That the object for which an appropriation of money is to be made be general, and

> not local; its operation extending in fact or by possibility throughout the union and not being confined to a particular spot.

Again, it should be emphasized that while the object of an appropriation must be national, as distinguished from local, it may nevertheless embrace matters not included in the enumerated powers of Congress.

In addition to these decisions the argument of congressional precedent is of great importance in defending the constitutionality of the farm loan act. The courts have often recognized the force of this consideration. Thus, in *McCulloch* v. *Maryland,* supra, Chief Justice Marshall (p. 401) said:

> It is conceived that a doubtful question, one on which human reason may pause and the human judgment be suspended, in the decision of which the great principles of liberty are not concerned, but the respective powers of those who are equally the representatives of the people, are to be adjusted; if not put at rest by the practice of the Government, ought to receive a considerable impression from that practice. An exposition of the Constitution, deliberately established by legislative acts on the faith of which an immense property has been advanced, ought not to be lightly disregarded.

The long-continued practice of the Federal Government has been to aid and encourage agricultural developments in a variety of ways. The most striking example is, of course, the act

of Congress creating the Department of Agriculture. (Act of May 15, 1862, and amendments: 1 Comp. Stat., secs. 788–852.)

Briefly summarized the act established a Department of Agriculture to acquire and diffuse useful information on agricultural subjects and to distribute high-grade varieties of vegetables, field and flower seeds, plants, shrubs, vines, bulbs, etc., to agriculturists, to preserve game birds, to establish a Weather Bureau, to establish a Bureau of Animal Industry for the protection of animals, and generally to assist agriculture throughout the country.

To support these activities large sums of money are annually appropriated by Congress. The validity of such appropriations has never been questioned and, of course, could not be successfully attacked because obviously in the interest of the general welfare.

During the summer and fall of 1913, the Secretary of the Treasury deposited in various national banks throughout the country sums aggregating $34,661,000 to form the basis of loans for crop-moving purposes. Similar action has been taken in subsequent years. In 1914 Government deposits to the amount of $12,659,000 were made in national banks through the South for the purpose of facilitating the credit of cotton growers. During the same year emergency currency aggregating $75,678,120 was issued to these banks upon the security of commercial paper, which in turn was secured

by warehouse receipts of cotton, tobacco, etc. (See Annual Reports of Secretary of the Treasury, 1914, 1915, and 1916.) In 1918 the Government made loans aggregating upwards of $4,500,000 through the Federal land banks of Wichita, Kans., St. Paul, Minn., and Spokane, Wash., to farmers in drought-stricken sections of the country. (Annual Report of Secretary of the Treasury, 1918.) The purpose of these actions was identical to the purpose of the Federal farm loan act, namely, to aid the agricultural interests of the country through a facilitation of credit.

Assuming as we logically may that the statutes and administrative acts just referred to are constitutional it follows that if the act under review had simply authorized direct loans of public funds to the farmers its validity would have been assured. Can it be said that the act is unconstitutional, because instead of directly dealing with the farmers it sets up a system of self-supporting banks to act as lenders instead of the National Treasury?

Once it be admitted that a provision for lending money to farmers on reasonable rates and terms can promote the general welfare it follows that the whole people could be taxed by Congress for this purpose and the money raised by taxation could be then appropriated directly in aid of the farmers. It is clear that the end is legitimate. Instead of adopting this means to accomplish the end Congress has seen fit, in order to relieve the

people of increased taxation, to provide a system to induce them voluntarily to provide the funds which they could be forced to provide through the taxing power. While there has been a direct appropriation in the subscription by the Government to the capital of the Federal land banks, it was contemplated that the major portion of the funds to be loaned to farmers should be raised through the issuance by both classes of banks of farm loan bonds, which are subscribed for by the people generally. The proposition then comes to this: That under the appropriation power Congress may create corporations which may obtain funds, through public subscription to their obligations, to be applied by these corporations for objects which pertain to the general welfare of the United States.

It is thus apparent that the creation of both classes of banks *is simply a means to raise money for a legitimate end.* As such their validity is established within the famous dictum of Chief Justice Marshall in *McCulloch* v. *Maryland,* supra (p. 421):

> Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional.

If Congress can directly raise money to be appropriated for the purpose contemplated by the farm loan act, it undoubtedly has the lesser power of

creating corporations to raise money for the same legitimate end.

That the stimulation of agriculture and a supply of products of the soil is essential to the general welfare, in maintaining armies, affecting commerce, providing cargoes for our merchant marine, and in a number of other general directions needs but the statement. This is in addition to the beneficent effect on the internal welfare of a large and increasing production, and apart from the benefit to individuals or classes.

(C) The act is a constitutional exercise of the power of Congress over the credit of the Nation.

The financial system of any country forms the basis of its general prosperity. Its strength and flexibility will directly effect the financial operations of the Government in its own fiscal affairs. There are two principal methods of doing business involved in the commercial dealings of every country. The first involves dealings upon a cash or currency basis; the second upon credit. It was apparent to the framers of the Constitution that the currency which passed from hand to hand must be uniform throughout the country in order to establish a sound basis for national trade and commerce. Indeed, according to Mr. Webster (Works, vol. 3, p. 395):

> We all know that the establishment of a sound and uniform currency was one of the greatest ends contemplated in the adoption of the present Constitution. If we

> could now fully explore all the motives of those who framed and those who supported that Constitution perhaps we should hardly find a more powerful one than this.

The same view was taken by this court in *Veazie Bank* v. *Fenno,* 8 Wallace, 533, where it was held that in the exercise of this power Congress had undertaken through its legislative acts to provide a currency for the entire country. In this case Congress had imposed a prohibitive tax of 10 per cent upon the notes issued by State banks, thus indicating an intention that the only currency of the country should be a national one. The court said (pp. 548–549):

> Having thus, in the exercise of undisputed constitutional powers, undertaken to provde a currency for the whole country, it can not be questioned that Congress may, constitutionally, secure the benefit of it to the people by appropriate legislation. * * * Congress may restrain by suitable enactments the circulation as money of any notes not issued under its own authority. Without this power, indeed, its attempts to secure a sound and uniform currency for the country must be futile.

The same questions in a slightly different form were involved in the *Legal Tender Cases,* 12 Wallace, 457. Here the court held that Congress might authorize the issuance of Treasury notes and make them legal tender for the payment of all debts. It was strongly argued by counsel and

held in the dissenting opinion that while the power to supervise the currency system sustained the right of the Government to issue its own notes, it was not necessary for Congress to go further and provide that these notes must be received in satisfaction of the debts of its citizens. The prevailing opinion, however, took the broader view that Congress was the judge of the needs of the country in this particular. Mr. Justice Bradley concurred in a separate opinion. After pointing out that the Federal Government had (p. 555)—

> jurisdiction over all those general subjects of legislation and sovereignty which affect the interests of the whole people equally and alike and which require uniformity of regulations and laws, such as the coinage, weights and measures, bankruptcies, the postal system, patent and copyright laws, the public lands, and interstate commerce, all which subjects are expressly or impliedly prohibited to the State governments,

he based his decision on the ground that Congress must necessarily have the power in times of stress to provide a currency to support the credit structure not only of the Government but of the people themselves. He said (pp. 562–564):

> Another ground of the power to issue treasury notes or bills is the necessity of providing a proper currency for the country, and especially of providing for the failure or disappearance of the ordinary currency in times of financial pressure and *threatened collapse of commercial credit.*

Currency is a national necessity. The operations of the government, as well as private transactions, are wholly dependent on it. * * * Uniformity of money was one of the objects of the Constitution. * * * It is the duty of the general government to provide a national currency. The States can not do it except by the charter of local banks and that remedy, if strictly legitimate and constitutional, is inadequate, fluctuating, uncertain, and insecure, and operates with all the partiality to local interests which it was the very object of the Constitution to avoid. * * * When the ordinary currency disappears, as it often does in time of war, when business begins to stagnate and general bankruptcy is imminent, then the government must have power at the same time to renovate its own resources and to revive the drooping energies of the nation by supplying it with a circulating medium. What that medium shall be, what its character and qualities, will depend upon the greatness of the exigency and the degree of promptitude which it demands. These are legislative questions. The heart of the nation must not be crushed out. *The people must be aided to pay their debts and meet their obligations.* The debtor interest of the country represents its bone and sinew, and *must be encouraged to pursue its avocations.* If relief were not afforded universal bankruptcy would ensue, and industry would be stopped, and government would be paralyzed in the paralysis of the people. * * *

This reasoning and the powers of the Government were affirmed and set at rest in *Legal Tender Cases*, 12 Wall. 457.

It is clear from the reasoning of this opinion that when in the judgment of Congress a great number of citizens are unable to satisfactorily carry on their business, owing to a lack of an available circulating medium, it is proper for Congress to step in and provide a system which will remedy the situation. This may be accomplished either through the issuance of Government notes to assist the cash transactions of the debtor or through the establishment by the Government of a series of banks to provide the necessary means of individual credit.

Congress has not hesitated to resort to the latter method. The first bank of the United States was established in 1791 and the second bank in 1816. Both banks, besides being fiscal agents of the United States, were vested with private banking powers. The national banks which were established by the act of June 3, 1864, *may* be designated financial agents and depositaries of the Government, but their chief functions are, of course, to facilitate commercial credit on a national scale and in a uniform manner. They are subject only to Federal supervision and are thus essentially national institutions.

In *Talbott* v. *Silver Bow County*, 139 U. S. 438, the court said (pp. 442, 443):

> The national banking system was national in its design, coextensive in its operation

> with the territorial limits of the United States, and intended to be the banking system for the whole country, Territories as well as States.
>
> • • • • •
>
> These various provisions, scattered through the entire body of the statute respecting national banks, emphasize that which the character of the system implies—an intent to create a national banking system coextensive with the territorial limits of the United States, and with uniform operation within those limits, to establish everywhere throughout the United States banks with the security which a national examination gives, and furnish a currency of uniform value, the same in Arizona as in New York, in Territory as in State.

It was not the intention of Congress, by the establishment of national banks, to furnish the exclusive commercial institutions of the country. State institutions were allowed to exist in competition, but Congress provided a great system of national banks to which citizens might turn in obtaining their commercial credit. This was the first great step by the National Government in taking under its protection the credit needs of the whole country.

The second step was the passage of the Federal reserve act in 1916, which is entitled, "An act to provide for the establishment of the Federal reserve banks, to furnish an elastic currency, to afford means of rediscounting commercial paper,

to establish a more effective supervision of banking in the United States, and for other purposes (act of Dec. 23, 1913)." Without entering into an extended discussion of the purposes and accomplishments of this legislation, it may be said that it was intended to facilitate commercial credit and to secure the country against financial panics. The Federal Government through the Federal Reserve Board thus assumed a still more extensive control over the commercial credit of the country.

The needs of the agricultural interests were to some extent recognized in the Federal reserve act, but not provided for to the extent that such needs of other general interests were cared for. Until its passage the national banks were without power to lend upon land security, which left the agricultural interests wholly dependent on the State banks and other local institutions of credit, which experience showed were extremely unsatisfactory in many sections of the country. In order to promote the agriculture of the Nation by assisting the credit of farmers, the Federal reserve act permitted national banks to lend limited amounts on land security, for a period not exceeding five years. In addition, the notes of farmers when given in the course of their business were permitted to be discounted up to a maturity of six months. It was hoped that in this way agricultural credit would be greatly facilitated. Experience has since shown, however, that the chief need of the farmer is for long-term credits, and

that when commercial banks, which must keep their assets liquid, are given the option of lending their resources for short or for long periods they will, as a matter of sound business policy, refuse to tie up their funds except for short-time loans. The ordinary commercial needs are from 30 to 90 days, and, as a matter of sound economics, the banks prefer to cater to credit requirements of this duration. It was for this reason undoubtedly that Congress did not utilize national banks in setting up its system of farm-loan credits. A separate system of agricultural banks, without the right to loan money in the ordinary commercial transaction, was necessary if the credit needs of the farmer were to be served and cheaper money provided for agriculture. Therefore, Congress, by the passage of the farm-loan act, merely completed the exercise of its progressive and increasing control over the credit system of the country begun by the passage of the national-bank act and continued under the Federal reserve act. It was not favoring a class, but adapting its system to the differing conditions of each great industry so as to make the entire system as efficient as possible.

In seems clear that by the passage of these three great acts, and other legislation of uniform financial application, illustrated by the bankruptcy act, Congress has clearly indicated its intention to regulate and control a financial and monetary system and thus deal with the currency and credit

needs of all classes of citizens. To say that Congress may not assist the agricultural population which provides the essential means of the country's existence, to the same extent as it has assisted the commercial population, is, in the last analysis, to deny the right of the Government itself to exist, and at least to compel it to discriminate against the agricultural interests.

The same considerations which prompted Congress thus to take jurisdiction over the commercial credit of the Nation and reshape the currency policy led to the enactment of the Federal farm-loan act. Indeed that act was referred to through debates and in the committee reports as " a companion piece of legislation to the Federal reserve act " (see, for example, Congressional Record, p. 7708, 64th Cong., 1st sess.). It was realized that the subject of rural credits was fully as national in scope as that of commercial credits, and that only through Federal supervision could uniformity be obtained. The report of the United States commission deals at length with the question whether the matter was one of State or Federal jurisdiction, and concluded in favor of the latter, saying (S. Doc. 380, Pt. I, p. 32):

> Our 48 State sovereignties represent a large number of differing methods of conveyancing, registration, foreclosure, taxation, and exemption. *The difficulty of securing uniformity of laws in these respects is obvious.* The efforts that have heretofore been made to secure the uniformity in

laws governing negotiable instruments, in divorce laws, and in other directions have shown that it is at best a slow process, and that, however wise the proposed legislation may be, it is extremely difficult to arouse the people to the necessity of prompt action.

(D) The act is a constitutional exercise of the war power of Congress.

The Constitution gives Congress the express power to declare war and by necessary implication the power to make war. Included in the power to make war is, of course, the power to prepare for war. This has been recognized not only by Congress but by the courts.

In the Legal Tender cases, 12 Wallace 457, the court said, speaking of the express powers granted to Congress under the Constitution (p. 546):

> They have never been construed literally, and the Government could not exist if they were. Thus, the power to carry on war is conferred by the power to "declare war."

That the war power of Congress is not dormant in time of peace is indicated by Alexander Hamilton in his argument on the constitutionality of the Bank of the United States, in the course of which he said:

> A nation is threatened with a war; large sums are wanted on a sudden to make the requisite preparations; taxes are laid for the purpose; but it requires time to obtain the benefit of them; anticipation is indispen-

> sable. If there be a bank, the supply can at once be had; if there be none, loans from individuals must be sought. The progress of this is found too slow for the exigencies; in some situations they are not practicable at all.

In *Crandall* v. *Nevada,* 6 Wallace 35, the court held invalid a State tax on passengers for the privilege of passing through the State. It was recognized that this tax might conflict with the right of the Government to transport its troops in time of war.

The court said (p. 44):

> The Federal power has a right to declare and prosecute wars, and, as a necessary incident, to raise and transport troops through and over the territory of any State of the Union.
>
> If this right is dependent in any sense, however limited, upon the pleasure of a State, the Government itself may be overthrown by an obstruction to its exercise. Much the largest part of the transportation of troops during the late rebellion was by railroads, and largely through States whose people were hostile to the Union. If the tax levied by Nevada on railroad passengers had been the law of Tennessee, enlarged to meet the wishes of her people, the Treasury of the United States could not have paid the tax necessary to enable its armies to pass through her territory.

That the development of agriculture is a vital need in the country's preparedness for war can not

be questioned. The Government's guarantee of the price of wheat to farmers and its control of the railroads were instances of this practical necessity. The farm loan act was passed in 1916, when the war had been raging in Europe for two years and the food supply of the world had become much depleted. The entry of this Government into that conflict was imminent at the time, and this was undoubtedly in the mind of Congress. Even apart from the necessities created by a world conflict it is the duty of Congress to marshal the resources of the country in time of peace as a safeguard against the possibility of future wars. That these considerations played a prominent part in the passage of the act is evidence from the debates in Congress.

Senator Sheppard said (Cong. Rec., p. 4892, 64th Cong., 1st sess.):

> I think that while we are engaged in the necessary preparation for an adequate Army and Navy we should not overlook the fact that the most permanent and important form of preparedness lies in a prosperous and independent agriculture.

Senator Hitchcock said, in the same session, page 6950:

> How are we going to provide the food for our increasing millions? We can only do it by doing as Germany did. Beginning 45 years ago * * * Germany has increased the average German farm acre

more than 80 per cent. To bring this about it was necessary to supply farms with cheap and abundant capital; to build improvements, buy machinery, and fertilize the land. In this way intensive farming has enormously increased the national wealth and enabled the Empire to bear the burden of this war.

Representative Shallenberger, in the same session, page 1808, said:

We have heard a great deal of late about the necessity of preparedness, but here is a preparation that is more essential to our national existence and progress than battleships or cannon, whether in peace or war. The war strength of every nation is primarily dependent upon the productive capacity of its people. We have a concrete example of this displayed for our consideration upon the other side of the Atlantic. * * *

Understanding how all-important the ability of a nation to feed itself becomes in time of war, the German Government a generation ago began to study the problem of increasing the production of the farms of Germany. They, of course, learned that the essential requisite for agricultural development is a proper system of rural credit * * * As a result of a proper rural credit system the agricultural development of Germany began to draw the attention of the entire world. The wise men of Germany prepared well when they encouraged

the farmers of the Empire to fill her war chest with food.

Even before the war of 1914 the food situation in the United States was becoming increasingly unfavorable to such an extent that it was characterized in the hearings prior to the adoption of the farm-loan act as " a great national question." (Hearings of the subcommittee of the Senate, held Mar. 5, 1914, p. 504.) It can not be doubted therefore that one of the impelling motives for the passage of the act was the desire of Congress to prepare the country for a successful prosecution of war.

That any measure which even indirectly puts the Nation in a better position to meet or carry on war is within the war power of Congress was held in *United States* v. *Gettysburg Electric Railway Co.*, 160 U. S. 668. This case involved an act of Congress to condemn the Gettysburg battle field for the purpose of erecting monuments, marking the lines of the battle, etc., in pursuance of the congressional enactment. The defendant, an electric railroad, which had already condemned the land for its own purposes, resisted the Federal condemnation on the ground that it was not within the constitutional powers of Congress to condemn land for the mere purpose of marking a battle field. The court, however, held that such action was within the war powers of Congress by promoting patriotism, and said (p. 681):

> Any act of Congress which plainly and directly tends to enhance the respect and love of the citizen for the institutions of his country and to quicken and strengthen his motive to defend them, and which is germane to and intimately connected with and appropriate to the exercise of some one or all of the powers granted by Congress must be valid.

And again (p. 682):

> Such action on the part of Congress touches the heart, and comes home to the imagination of every citizen, and greatly tends to enhance his love and respect for those institutions for which these heroic sacrifices were made. The greater the love of the citizen for the institutions of his country, the greater is the dependence properly to be placed upon him for their defense in time of necessity, and it is to such men that the country must look for its safety.

And further (p. 683):

> The power to condemn for this purpose need not be plainly and unmistakably deduced from any one of the particularly specified powers. Any number of those powers may be grouped together, and an inference from them all may be drawn that the power claimed has been conferred.

If the promotion of patriotism comes within the war power, it seems very clear that assisting agriculture for the purpose of increasing the food sup-

ply is also valid under this power. How can one be a patriot without life? How can one maintain life without food?

A full stomach is quite as important for a soldier as patriotism. As was well said by Representative Shallenberger, Sixty-fourth Congress, first session, page 1808:

> One of the sayings of Bonaparte so often quoted was that "every army moves upon its stomach." What he meant was that the bravest man can not fight unless he is fed.

It is submitted, therefore, that Congress, by virtue of its power to prepare for war, can properly stimulate food production, and that the creation of the land banks for the purposes enumerated in the act constitutes a means appropriate to that end.

The language of Mr. Justice Bradley in his concurring opinion in the Legal Tender cases, supra, is particularly applicable to the promotion of agriculture under the war power. He said (p. 563):

> It is absolutely essential to independent national existence that government should have a firm hold on the two great sovereign instrumentalities of the *sword* and the *purse*, and the right to wield them without restriction on occasions of national peril. * * * Its armies must be filled, and its navies manned by the citizens in person. Its material of war, its munitions, equipment, and commissary stores must come from the industry of the country. This can only be stimulated into activity by a proper financial system, especially as regards the cur-

rency. * * * It must stimulate and set in motion the industry of the country.

II.

The exemption from State taxation of the bonds issued by and the mortgages executed to the Federal land banks and joint-stock land banks is constitutional.

The present suit attacks directly only the validity of the exemption from taxation of the bonds. The exemption of the mortgages will also be discussed, because they form the security underlying the bonds.

The Federal land act specifically exempts three classes of property of the land banks as follows:

(1) " Every Federal land bank and every farm-loan association including the capital and reserve or surplus therein and income derived therefrom."

(2) " Farm-loan bonds issued under the provisions of this act."

(3) " First mortgages executed to Federal land banks or joint-stock land banks."

It is further provided that the shares of the joint-stock land banks and the real property of Federal and joint-stock land banks and national farm loan associations may be taxed by the State subject to certain limitations. This whole scheme of tax exemptions is so similar to that of the national banks that authorities relating to the exemptions of national banks are directly in point.

The exemption of the farm loan associations and the joint-stock land banks, nor those relating

to the capital, reserve, or surplus and income of the Federal land banks, are not in issue. The discussion, therefore, is confined to (1) the exemption of mortgages executed and held by Federal land banks or joint-stock land banks; (2) exemption of farm loan bonds. Whether or not the exemption is a wise one is not a judicial question. The court can look only to the power of Congress to exempt its agencies from taxation. In *Bank* v. *Supervisors*, 7 Wall., 26, holding that a State could not tax the legal tender notes of the United States, the court said (pp. 30–31):

> And we think it clearly within the discretion of Congress to determine whether, in view of all the circumstances attending the issue of the notes, their usefulness as a means of carrying on the Government would be enhanced by exemption from taxation; and within the constitutional power of Congress, having resolved the question of usefulness affirmatively, to provide by law for such exemption.

It is to be noted that there is nothing unusual in the tax exemptions contained in the farm loan act. It has been the policy of the Government to exempt from taxation its own obligations and the functions and property of its fiscal agents in many instances, and it is simply a question for Congress to determine when in its opinion the usefulness of its agencies will be enhanced by the exemption from taxation. Some of the more important ex-

emptions contained in congressional legislation are as follows:

I. Federal reserve banks, including the capital stock and surplus therefrom and the income derived therefrom, except taxes on real estate. (38 Stat. 258.)

II. National banks are not subject to taxation except on their capital stock and their real estate.

III. The following provision is contained in R. S. 3701:

> All stocks, bonds, Treasury notes, and other obligations of the United States shall be exempt from taxation by or under State or municipal or local authority.

IV. The exemptions granted to the various Liberty bond issues are matters of common knowledge.

When the exemption granted to farm loan bonds under this act is considered in relation to the purpose of Congress to secure low rates of interest to farmers, there can be no doubt as to the necessity or wisdom of such exemption.

There are two well-defined lines of decision, the first beginning with *McCulloch* v. *Maryland* and *Osborn* v. *The Bank*, both supra, holding that it is beyond the power of a State to levy a tax upon the functions of a governmental agency. The other line of decisions is illustrated by *Thomson* v. *Pacific Railroad*, 9 Wallace, 379, and *Railroad Company* v. *Peniston*, 18 Wallace, 5, holding that the property of a governmental agency as distinguished from its functions may

be taxed when not expressly or impliedly exempted by Congress. It is important to bear in mind this distinction, for a tax upon the farm loan bonds must be considered a tax upon the functions of the banks under *Farmers' Bank* v. *Minnesota*, 232 U. S. 516, and a tax upon the mortgages held by the banks may be considered a tax upon the property rather than upon the functions of the banks. In this brief they will be treated as property (the least favorable aspect), and it will be shown that even when so considered it is within the power of Congress to specifically exempt them.

(A) It is beyond the power of the States to levy a tax upon the functions, whether public or private, of a governmental agency.

The two great leading cases which related to the exemption from State taxation of the second United States bank are *McCulloch* v. *Maryland* and *Osborn* v. *The Bank*, both referred to supra.

In the former case, the court, speaking by Chief Justice Marshall, held that Congress had power to create a bank; the power to create implied the power to preserve, and as the State's power to tax was inconsistent with the preservation of the bank, its functions and operations must be free from such taxation. The court said (p. 431):

> That the power to tax involves the power to destroy; that the power to destroy may defeat and render useless the power to create; that there is a plain repugnance, in con-

> ferring on one government a power to control the constitutional measures of another, which other, with respect to those very measures, is declared to be supreme over that which exerts the control, are propositions not to be denied.

A dictum often quoted was then stated as follows (pp. 436–439):

> This opinion does not deprive the States of any resources which they originally possessed. It does not extend to a tax paid by the real property of the bank, in common with the other real property within the State, nor to a tax imposed on the interest which the citizens of Maryland may hold in this institution, in common with other property of the same description throughout the State. But this is a tax on the operations of the bank, and is, consequently, a tax on the operation of an instrument employed by the Government of the Union to carry its powers into execution. Such a tax must be unconstitutional.

The doctrine thus announced was reexamined and reaffirmed in *Osborn* v. *The Bank*, supra. It was argued that at least the private purposes of the bank should be subject to State taxation. But the court said (pp. 859–862):

> This mere private corporation, engaged in its own business, with its own views, would certainly be subject to the taxing power of the State, as any individual would be; and the casual circumstance of its being employed by the Government in the trans-

action of its fiscal affairs, would no more exempt its private business from the operation of that power than it would exempt the private business of any individual employed in the same manner. But the premises are not true.

* * * * *

It is not an instrument which the Government found ready made, and has supposed to be adapted to its purposes; but one which was created in the form in which it now appears, for national purposes only. It is, undoubtedly, capable of transacting private as well as public business. While it is the great instrument by which the fiscal operations of the Government are effected, it is also trading with individuals for its own advantage. The appellants endeavor to distinguish between this trade and its agency for the public, between its banking operations and those qualities which it possesses in common with every corporation, such as individuality, immortality, etc. While they seem to admit the right to preserve this corporate existence, they deny the right to protect it in its trade and business.

* * * * *

Deprive a bank of its trade and business, which is its sustenance, and its immortality, if it have that property, will be a very useless attribute.

This distinction, then, has no real existence. To tax its faculties, its trade, and occupation, is to tax the bank itself. To

destroy or preserve the one, is to destroy or preserve the other.

These two cases, therefore, establish the proposition that the functions of a Federal agency, whether public or private, may not be taxed by the States, even the Congress is silent on the subject.

The National Bank cases, which now follow chronologically, are particularly important in that they deal with the effect of section 5219 of the Revised Statutes. In this section Congress expressly grants to the States the right to tax the capital stock and real property of national banks. The cases hold that Congress in making this express grant had impliedly withdrawn all other functions or property of national banks from the sphere of State taxation. It must be noted that the language of section 5219 with relation to national banks has been substantially inserted in the farm loan act, and in addition in the latter act the mortgages and the bonds have been expressly exempted. Accordingly, the National Bank cases which hold that functions or property of a national bank are exempt from State taxation by this implied prohibition of Congress will *a fortiori* apply to the land banks which have the benefit of both the implied exemption and the express exemption by Congress. The only public features of national banks consist in the fact that they may be designated Government depositaries

and financial agents. The land banks may also be designated Government depositaries and financial agents. Moreover, if the function promoting agriculture and increasing the supplies of the Nation of lending money to farmers is a public function and not a private function, their operations and property will be more forcibly exempted than those of the national banks.

The case of *Van Allen* v. *Assessors*, 3 Wallace, 573, is the first important case regarding the national-bank tax exemptions, and holds that Congress may, as it purported to do in the national-bank act, subject the shares of national banks held by private persons to State taxation. The court, however, did not in any way purport to overrule *McCulloch* v. *Maryland*, supra, and the cases following it, saying (p. 585):

> It is said that Congress possesses no power to confer upon a State authority to be exercised which has been exclusively delegated to that body by the Constitution, and, consequently, that it can not confer upon a State the sovereign right of taxation; nor is a State competent to receive a grant of any such power from Congress. We agree to this. But as it respects a subject-matter over which Congress and the States may exercise a concurrent power, but from the exercise of which Congress, by reason of its paramount authority, may exclude the States, there is no doubt Congress may withhold the exercise of that authority and leave the States free to act.

There is no doubt, therefore, that the court would have held an exemption of the property constitutional if Congress had so enacted.

This case was followed by *National Bank* v. *Commonwealth*, 9 Wallace, 353, holding that the right to tax the shares of a national bank included the right to collect the tax from the bank itself as agent for its shareholders. The court said in discussing the principles of *McCulloch* v. *Maryland*, supra (p. 362):

> The principle we are discussing has its limitation, a limitation growing out of the necessity on which the principle itself is founded. That limitation is that the agencies of the Federal Government are only exempted from State legislation so far as that legislation may interfere with or impair their efficiency in performing the functions by which they are designed to serve that Government.

This case, therefore, leaves unimpaired the principle that a State may tax the functions of national agencies only in so far as Congress permits and in so far as such taxes will not seriously affect the performance of these functions.

These cases paved the way for the Railroad cases (discussed later) which hold that the property of a national agency may be taxed unless Congress has indicated a contrary intention. They do not affect the proposition that the functions of such an agency are exempt in any case from State taxa-

tion. It is not necessary to discuss whether or not Congress could allow the States to tax the functions of a governmental agency. It is sufficient that Congress has never attempted to permit such taxation, and therefore the question has never been squarely presented.

(B) A tax upon the farm-loan bonds would be a tax upon the functions of the land banks.

That a tax upon the farm-loan bonds issued by either class of banks would be a tax upon the functions of such banks, even when assessed against the holders of the bonds, is clearly held by *Farmers' Bank* v. *Minnesota*, 232 U. S. 516. In this case the State of Minnesota levied a tax upon the bonds issued by the municipalities of the Indian Territory and the Territory of Oklahoma. Such municipalities were held to be Government agencies. The tax was upon the bonds in the hands of the holders. The court held that such a tax was a tax upon the borrowing power of the municipality and therefore a tax upon its functions, which under *M'Culloch* v. *Maryland* was invalid. The court said (pp. 525, 526):

> In our opinion, therefore, the municipalities of the Territory of Oklahoma and of Indian Territory were instrumentalities and agencies of the Federal Government, with whose operations the States were not permitted to interfere by taxation or otherwise, and the issuing of municipal bonds

> was the performance of a governmental function, within the established doctrine.
>
> * * * * *
>
> But we deem it entirely clear that a tax upon the exercise of the function of issuing municipal bonds is a tax upon the operations of the Government and not in any sense a tax upon the property of the municipality. And to tax the bonds as property in the hands of the holders is, in the last analysis, to impose a tax upon the right of the municipality to issue them.

This reasoning applies with great force to the taxation of the bonds issued by the land banks. The issuance of such bonds is the exercise of the borrowing power of these banks, and therefore a tax upon them in the hands of the holders would be a clear tax upon this most important function of such banks.

(C) The property of a Federal agency is not subject to State taxation when expressly or impliedly exempted by Congress.

The early cases with regard to State taxation of the property of such agencies are *Thomson* v. *Pacific Railroad* and *Railroad Company* v. *Peniston*, supra.

The Thomson case was a stockholder's bill to enjoin the railroad from paying taxes on its *property* imposed by the State of Kansas, on the ground that the railroad was a Federal agency and, therefore, not subject to State taxation. The bill was dismissed, the court holding that the taxa-

tion was proper. The decision was based largely on the ground that the railroad had a State charter, but the court also said (p. 591):

> But we think there is a clear distinction between the means employed by the Government and the property of agents employed by the Government. Taxation of the agency is taxation of the means; taxation of the property of the agent is not always, or generally, taxation of the means * * * but it will be safe to conclude, in general, in reference to persons and State corporations employed in Government service, that when Congress has not interposed to protect their property from State taxation such taxation is not obnoxious to that objection.

In the Peniston case the same principles were applied to a railroad which had a Federal charter. The court said (p. 33):

> It may, therefore, be considered as settled that no constitutional implications prohibit a State tax upon the property of an agent of the Government merely because it is the property of such an agent.

And again (p. 36):

> It is, therefore, manifest that exemption of Federal agencies from State taxation is dependent, not upon the nature of the agents or upon the mode of their constitution, or upon the fact that they are agents, but upon the effect of the tax; that is, upon the question whether the tax does in truth deprive them of power to serve the Government as they

> were intended to serve it, or does hinder the efficient exercise of their power. A tax upon their property has no such necessary effect.

However, in the concurring opinion by Justice Swayne, it is said (pp. 37–38):

> I see no reason to doubt that it was the intention of Congress not to give the exemption claimed. The exercise of the power may be waived. But I hold that the road is a National instrumentality of such a character that Congress may interpose and protect it from State taxation whenever that body shall deem it proper to do so.

This case, therefore, did not hold that Congress may not exempt the property of Government agencies from State taxation, but merely that such exemption does not necessarily exist in the absence of congressional enactment.

These principles are followed in *Central Pacific Railroad* v. *California*, 162 U. S. 91, where the court said (p. 125):

> It may be regarded as firmly settled that although corporations may be agents of the United States, their property is not the property of the United States, but the property of the agents, and that a State may tax the property of the agents, subject to the limitations pointed out in *Railroad Company* v. *Peniston*. * * *
>
> Of course, if Congress should think it necessary for the protection of the United States to declare such property exempted, that would present a different question.

> Congress did not see fit to do so here, and unless we are prepared to overrule a long line of well-considered decisions the case comes within the rule therein laid down.

The distinction between taxation of property and of functions is shown by the case of *California* v. *Pacific Railroad Company*, 127 U. S. 1, which was a suit brought by the State to collect a tax levied on the franchise of a railroad which had been incorporated as a Federal agency. This tax was held invalid on the ground that it was an attempt to tax the functions rather than the property of the railroad. The court said (p. 40):

> Assuming, then, that the Central Pacific Railroad Co. has received the important franchises referred to by grant of the United States, the question arises whether they are legitimate subjects of taxation by the State. They were granted to the company for national purposes and to subserve national ends. It seems very clear that the State of California can neither take them away nor destroy nor abridge them nor cripple them by onerous burdens. Can it tax them? It may undoubtedly tax outside visible property of the company situated within the State. That is a different thing. But may it tax franchises which are the grant of the United States? In our judgment it can not.

The result of the cases cited above is as follows:

> 1. The property of a Government agency is not exempt from State taxation in the absence of an express exemption by Congress.

2. The right of Congress to exempt such property is not squarely decided, but this latter question is answered satisfactorily by the later cases which hold that the property of a national bank is not subject to State taxation where Congress expressly or impliedly exempts it (construing Sec. 5219).

In *Farmer's Bank* v. *Dearing*, 91 U. S. 29, which has been already considered, the court makes the following analysis (p. 34):

> In the complex system of polity, which obtains in this country, the powers of government may be divided into four classes—
>
> Those which belong exclusively to the States;
>
> Those which belong exclusively to the National Government;
>
> Those which may be exercised concurrently and independently by both; and
>
> Those which may be exercised by the States, but only with the consent, express or implied, of Congress.
>
> The power of the States to tax the existing national bank lies within the category last mentioned.

It may be doubted whether this last statement is not too broad when applied to functions; that is, it is doubtful whether Congress has any power to allow the States to tax the functions of national banks. At any rate it has never previously done so, nor has it done so in the case of the land banks.

In *Owensboro National Bank* v. *Owensboro*, 173 U. S. 664, the court discussed the effect of section 5219 (the substance of which is contained in the act creating the land banks), expressly giving the States the right to tax the real property and shares of national banks. The State tax in question was called a " franchise " tax, but was held to be a tax upon the bank's intangible property. The court held that the effect of section 5219 was to exempt *all* property of the bank except the real property and its shares. Mr. Justice White said (p. 668):

> It follows, then, necessarily from these conclusions that the respective States would be wholly without power to levy any tax, either direct or indirect, upon the national banks, *their property, assets, or franchises*, were it not for the permissive legislation of Congress.

And again, speaking of section 5219 (p. 669):

> This section, then, of the Revised Statutes is the measure of the power of a State to tax national banks, their property or their franchises. By its unambiguous provisions the power is confined to a taxation of the shares of stock in the names of the shareholders and to an assessment of the real estate of the bank. Any State tax, therefore, which is in excess of and not in conformity to these requirements is void.

The court quotes with approval the following statement from *Davis* v. *Elmira Savings Bank*, 161 U. S. 283:

> National banks are instrumentalities of the Federal Government, created for a public purpose, and as such necessarily subject to the paramount authority of the United States. It follows that an attempt, by a State, to define their duties or control the conduct of their affairs is absolutely void wherever such attempted exercise of authority expressly conflicts with the laws of the United States, and either frustrates the purpose of the national legislation or impairs the efficiency of these agencies of the Federal Government to discharge the duties for the performance of which they were created. These principles are axiomatic and are sanctioned by the repeated adjudications of this court.

And see:

Mercantile National Bank v. *New York*, 121 U. S. 138; and

People v. *Weaver*, 100 U. S. 539.

Bank of California v. *Richardson*, 248 U. S. 476, was a suit by a national bank to recover the amount of a tax levied on its stockholders, paid under protest. The tax was on the basis of the capitalization of plaintiff, a national bank, part of which was invested in the capital of another national bank. The court held: (1) That the valuation of the stock held in the other national

bank should have been deducted from the estimate of the valuation of the plaintiff bank in making assessments against its stockholders; (2) that the plaintiff as a national bank was not taxable at all as a stockholder in the State bank, though it was as a stockholder in the other national bank.

In a consideration of section 5219, already cited, the court said (p. 482):

> The forms of expression used in the section make it certain that in adopting it the legislative mind had in view the subject of how far the banking associations created were or should be made subject to State taxation, which presumably it was deemed necessary to deal with in view of the controversies growing out of the creation of the Bank of the United States and dealt with by decisions of this court. (*McCulloch* v. *Maryland*, 4 Wheaton 316–436; *Osborn* v. *United States Bank*, 9 Wheaton 738, 867; *Weston* v. *Charleston*, 2 Peters 449.) There is also no doubt from the section that it was intended to comprehensively control the subject with which it dealt and thus to furnish the exclusive rule governing State taxation as to the Federal agencies created as provided in the section. All possibility of dispute to the contrary is foreclosed by the decisions of this court.

Justice Pitney, although dissenting on another ground, said (pp. 488–489):

> Upon the last point I understand the case to be controlled by the decision of this court

> in *Owensboro National Bank* v. *Owensboro*, 173 U. S. 664, where it was held that section 5219 had the effect of exempting not only the operations and franchises, but the property of the national banks from State taxation, except as to their real estate. There are weighty considerations to the contrary which seem not to have been called to the attention of the court in that case—certainly are not adverted to in the opinion—but it would serve no useful purpose to bring them into the present discussion. Therefore I take it to be settled that under section 5219 a national bank may not be taxed by a State with respect to its ownership of shares in another corporation except shares in another national bank.

Therefore, even considering a tax on the mortgages as a tax upon the property rather than the functions of the land banks, it is clearly within the power of Congress to exempt them from all taxation.

(D) The exemptions are valid under whatever power of Congress the establishment of the land banks may be sustained.

It has been argued that creation of the banks may be sustained under any of the following powers of Congress:

(*a*) The power to create fiscal agents of the Government.

(*b*) The appropriation power of Congress.

(*c*) The power over the financial and credit system of the country.

(*d*) The war power of Congress.

The validity of the exemption, as shown by the cases above cited, depends on the valid creation of the banks as Federal agencies. It is not necessary for them to be financial agents, although this is the form in which the question has been most frequently raised. The Pacific Railroad Co. has been held exempt as a Federal agency (*California* v. *Pacific Railroad Company,* supra), and likewise municipalities of a territory (*Farmers Bank* v. *Minnesota,* supra). Whether the banks are agencies to assist the Federal Government in its fiscal, agricultural, or war preparedness operations, they are appropriate means to carry out an express or implied power of Congress, and therefore in any case are proper Government agencies whose operations may be exempted from State or local taxation. It is sufficient if they were established in the language of the court in *California* v. *Pacific Railroad Company,* supra, "for national purposes and to subserve national ends."

TO SUMMARIZE.

In the light of these cases the validity of the exemption of the farm-loan bonds is clear. A State tax upon such bonds, under the doctrine of *Farmers Bank* v. *Minnesota,* supra, would have amounted to a tax upon a function (the borrowing power) of the banks, and would, therefore, have been invalid even if no express exemption by Con-

gress had been made. The express exemption in the farm-loan act is thus merely declaratory of existing law and hence not open to constitutional objection.

The validity of the exemption of the mortgages is equally clear. Under the doctrine of the national bank cases, supra, if Congress had confined itself in the Federal farm-loan act to the precise language employed in the Revised Statutes, section 5219, the property of the land banks would have been held exempted by implication from State taxation. In the act under consideration, however, Congress has gone further and expressly exempted the mortgages executed to land banks from all species of taxation. What Congress can accomplish by implication, it can of course, accomplish expressly, and accordingly there is no doubt as to the validity of this exemption.

CONCLUSION.

It is respectfully submitted that the Federal and joint-stock land banks were validly created by the Federal farm-loan act, that the exemption from taxation, as provided in the act, is valid, and that the act is in all respects constitutional and valid.

JANUARY, 1920.

ALEX. C. KING,
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APPENDIX.

EXHIBIT A.

CHAP. 245.—An Act To provide capital for agricultural development, to create standard forms of investment based upon farm mortgage, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create Government depositaries and financial agents for the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the short title of this Act shall be "The Federal Farm Loan Act." Its administration shall be under the direction and control of the Federal Farm Loan Board hereinafter created.

DEFINITIONS.

SEC. 2. That wherever the term "first mortgage" is used in this Act it shall be held to include such classes of first liens on farm lands as shall be approved by the Federal Farm Loan Board, and the credit instruments secured thereby. The term "farm loan bonds" shall be held to include all bonds secured by collateral deposited with a farm loan registrar under the terms of this Act; they shall be distinguished by the addition of the words "Federal," or "joint stock," as the case may be.

FEDERAL FARM LOAN BOARD.

SEC. 3. That there shall be established at the seat of government in the Department of the Treasury a bureau charged with the execution of this Act and of all Acts amendatory thereof, to be known as the Federal Farm Loan Bureau, under the general supervision of a Federal Loan Board.

Said Federal Farm Loan Board shall consist of five members, including the Secretary of the Treasury, who shall be a member and chairman ex officio, and four members to be

appointed by the President of the United States, by and with the advice and consent of the Senate. Of the four members to be appointed by the President, not more than two shall be appointed from one political party, and all four of said members shall be citizens of the United States and shall devote their entire time to the business of the Federal Farm Loan Board; they shall receive an annual salary of $10,000 payable monthly, together with actual necessary traveling expenses.

One of the members to be appointed by the President shall be designated by him to serve for two years, one for four years, one for six years, and one for eight years, and thereafter each member so appointed shall serve for a term of eight years, unless sooner removed for cause by the President. One of the members shall be designated by the President as the Farm Loan Commissioner, who shall be the active executive officer of said board. Each member of the Federal Farm Loan Board shall within fifteen days after notice of his appointment take and subscribe to the oath of office.

The first meeting of the Federal Farm Loan Board shall be held in Washington as soon as may be after the passage of this Act, at a date and place to be fixed by the Secretary of the Treasury.

No member of the Federal Farm Loan Board shall, during his continuance in office, be an officer or director of any other institution, association, or partnership engaged in banking, or in the business of making land mortgage loans or selling land mortgages. Before entering upon his duties as a member of the Federal Farm Loan Board each member shall certify under oath to the President that he is eligible under this section.

The President shall have the power, by and with the advice and consent of the Senate, to fill any vacancy occurring in the membership of the Federal Farm Loan Board; if such vacancy shall be filled during the recess of the Senate a commission shall be granted which shall expire at the end of the next session.

The Federal Farm Loan Board shall appoint a farm loan registrar in each land bank district to receive applications for issues of farm loan bonds and to perform such other serv-

ices as are prescribed by this Act. It shall also appoint one or more land bank appraisers for each land bank district and as many land bank examiners as it shall deem necessary. Farm loan registrars, land bank appraisers, and land bank examiners appointed under this section shall be public officials and shall, during their continuance in office, have no connection with or interest in any other institution, association, or partnership engaged in banking or in the business of making land mortgage loans or selling land mortgages: *Provided*, That this limitation shall not apply to persons employed by the board temporarily to do special work.

The salaries and expenses of the Federal Farm Loan Board, and of farm loan registrars and examiners authorized under this section, shall be paid by the United States. Land bank appraisers shall receive such compensation as the Federal Farm Loan Board shall fix, and shall be paid by the Federal land banks and the joint stock land banks which they serve, in such proportion and in such manner as the Federal Farm Loan Board shall order.

The Federal Farm Loan Board shall be authorized and empowered to employ such attorneys, experts, assistants, clerks, laborers, and other employees as it may deem necessary to conduct the business of said board. All salaries and fees authorized in this section and not otherwise provided for shall be fixed in advance by said board and shall be paid in the same manner as the salaries of the Federal Farm Loan Board. All such attorneys, experts, assistants, clerks, laborers, and other employees, and all registrars, examiners, and appraisers shall be appointed without regard to the provisions of the Act of January sixteenth, eighteen hundred and eighty-three (volume twenty-two, United States Statutes at Large, page four hundred and three), and amendments thereto, or any rule or regulation made in pursuance thereof: *Provided*, That nothing herein shall prevent the President from placing said employees in the classified service.

Every Federal land bank shall semiannually submit to the Federal Farm Loan Board a schedule showing the salaries or rates of compensation paid to its officers and employees.

The Federal Farm Loan Board shall annually make a full report of its operations to the Speaker of the House of Rep-

resentatives, who shall cause the same to be printed for the information of the Congress.

The Federal Farm Loan Board shall from time to time require examinations and reports of condition of all land banks established under the provisions of this Act and shall publish consolidated statements of the results thereof. It shall cause to be made appraisals of farm lands as provided by this Act, and shall prepare and publish amortization tables which shall be used by national farm loan associations and land banks organized under this Act.

The Federal Farm Loan Board shall prescribe a form for the satement of condition of national farm loan associations and land banks under its supervision, which shall be filled out quarterly by each such association or bank and transmitted to said board.

It shall be the duty of the Federal Farm Loan Board to prepare from time to time bulletins setting forth the principal features of this Act and through the Department of Agriculture or otherwise to distribute the same, particularly to the press, to agricultural journals, and to farmers' organizations; to prepare and distribute in the same manner circulars setting forth the principles and advantages of amortized farm loans and the protection afforded debtors under this Act, instructing farmers how to organize and conduct farm loan associations, and advising investors of the merits and advantages of farm loan bonds; and to disseminate in its discretion information for the further instruction of farmers regarding the methods and principles of cooperative credit and organization. Said board is hereby authorized to use a reasonable portion of the organization fund provided in section thirty-three of this Act for the objects specified in this paragraph, and is instructed to lay before the Congress at each session its recommendations for further appropriations to carry out said objects.

FEDERAL LAND BANKS.

SEC. 4. That as soon as practicable the Federal Farm Loan Board shall divide the continental United States, excluding Alaska, into twelve districts, which shall be known as Federal land bank districts, and may be designated by

number. Said districts shall be apportioned with due regard to the farm loan needs of the country, but no such district shall contain a fractional part of any State. The boundaries thereof may be readjusted from time to time in the discretion of said board.

The Federal Farm Loan Board shall establish in each Federal land bank district a Federal land bank, with its principal office located in such city within the district as said board shall designate. Each Federal land bank shall include in its title the name of the city in which it is located. Subject to the approval of the Federal Farm Loan Board, any Federal land bank may establish branches within the land bank district.

Each Federal land bank shall be temporarily managed by five directors appointed by the Federal Farm Loan Board. Said directors shall be citizens of the United States and residents of the district. They shall each give a surety bond, the premium on which shall be paid from the funds of the bank. They shall receive such compensation as the Federal Farm Loan Board shall fix. They shall choose from their number, by majority vote, a president, a vice president, a secretary and a treasurer. They are further authorized and empowered to employ such attorneys, experts, assistants, clerks, laborers, and other employees as they may deem necessary, and to fix their compensation, subject to the approval of the Federal Farm Loan Board.

Said temporary directors shall, under their hands, forthwith make an organization certificate, which shall specifically state:

First. The name assumed by such bank.

Second. The district within which its operations are to be carried on, and the particular city in which its principal office is to be located.

Third. The amount of capital stock and the number of shares into which the same is to be divided: *Provided*, That every Federal land bank organized under this Act shall by its articles of association permit an increase of its capital stock from time to time for the purpose of providing for the issue of shares to national farm loan associations and stockholders who may secure loans through agents of Federal land banks in accordance with the provisions of this Act.

Fourth. The fact that the certificate is made to enable such persons to avail themselves of the advantages of this Act. The organization certificate shall be acknowledged before a judge or clerk of some court of record or notary public, and shall be, together with the acknowledgment thereof, authenticated by the seal of such court or notary, transmitted to the Farm Loan Commissioner, who shall record and carefully preserve the same in his office, where it shall be at all times open to public inspection.

The Federal Farm Loan Board is authorized to direct such changes in or additions to any such organization certificate, not inconsistent with this Act, as it may deem necessary or expedient.

Upon duly making and filing such organization certificate the bank shall become, as from the date of the execution of its organization certificate, a body corporate, and as such, and in the name designated in the organization certificate, it shall have power—

First. To adopt and use a corporate seal.

Second. To have succession until it is dissolved by Act of Congress or under the provisions of this Act.

Third. To make contracts.

Fourth. To sue and be sued, complain, interplead, and defend, in any court of law or equity, as fully as natural persons.

Fifth. To elect or appoint directors, and by its board of directors to elect a president and a vice president, appoint a secretary and a treasurer and other officers and employees, define their duties, require bonds of them, and fix the penalty thereof; by action of its board of directors dismiss such officers and employees, or any of them, at pleasure and appoint others to fill their places.

Sixth. To prescribe, by its board of directors, subject to the supervision and regulation of the Federal Farm Loan Board, by-laws not inconsistent with law, regulating the manner in which its stock shall be transferred, its directors elected, its officers elected or appointed, its property transferred, its general business conducted, and the privileges granted to it by law exercised and enjoyed.

Seventh. To exercise, by its board of directors or duly authorized officers or agents, subject to law, all such inciden-

tal powers as shall be necessary to carry on the business herein described.

After the subscriptions to stock in any Federal land bank by national farm loan associations, hereinafter authorized, shall have reached the sum of $100,000, the officers and directors of said land bank shall be chosen as herein provided and shall, upon becoming duly qualified, take over the management of said land bank from the temporary officers selected under this section.

The board of directors of every Federal land bank shall be selected as hereinafter specified and shall consist of nine members, each holding office for three years. Six of said directors shall be known as local directors, and shall be chosen by and be representative of national farm loan associations; and the remaining three directors shall be known as district directors, and shall be appointed by the Federal Farm Loan Board and represent the public interest.

At least two months before each election the Farm Loan Commissioner shall notify each national farm loan association in writing that such election is to be held, giving the number of directors to be elected for its district, and requesting each association to nominate one candidate for each director to be elected. Within ten days of the receipt of such notice each association shall forward its nominations to said Farm Loan Commissioner. Said commissioner shall prepare a list of candidates for local directors consisting of the twenty persons securing the highest number of votes from national farm loan associations making such nominations.

At least one month before said election said Farm Loan Commissioner shall mail to each national farm loan association the list of candidates. The directors of each national farm loan association shall cast the vote of said association for as many candidates on said list as there are vacancies to be filled, and shall forward said vote to the Farm Loan Commissioner within ten days after said list of candidates is received by them. The candidates receiving the highest number of votes shall be elected as local directors. In case of a tie the Farm Loan Commissioner shall determine the choice.

The Federal Farm Loan Board shall designate one of the district directors to serve for three years and to act as chairman of the board of directors. It shall designate one of said directors to serve for a term of two years and one to serve for a term of one year. After the first appointments each district director shall be appointed for a term of three years.

At the first regular meeting of the board of directors of each Federal land bank it shall be the duty of the local directors to designate two of the local directors whose term of office shall expire in one year from the date of such meeting, two whose term of office shall expire in two years from said date, and two whose term of office shall expire in three years from said date. Thereafter every local director of a Federal land bank chosen as hereinbefore provided shall hold office for a term of three years. Vacancies that may occur in the board of directors shall be filled for the unexpired term in the manner provided for the original selection of such directors.

Directors of Federal land banks shall have been for at least two years residents of the district for which they are appointed or elected, and at least one district director shall be experienced in practical farming and actually engaged at the time of his appointment in farming operations within the district. No director of a Federal land bank shall, during his continuance in office, act as an officer, director, or employee of any other institution, association, or partnership engaged in banking or in the business of making or selling land mortgage loans.

Directors of Federal land banks shall receive, in addition to any compensation otherwise provided, a reasonable allowance for necessary expenses in attending meetings of their respective boards, to be paid by the respective Federal land banks. Any compensation that may be provided by boards of directors of Federal land banks for directors, officers, or employees shall be subject to the approval of the Federal Farm Loan Board.

CAPITAL STOCK OF FEDERAL LAND BANKS.

SEC. 5. That every Federal land bank shall have, before beginning business, a subscribed capital of not less than

$750,000. The Federal Farm Loan Board is authorized to prescribe the times and conditions of the payment of subscriptions to capital stock, to reject any subscription in its discretion, and to require subscribers to furnish adequate security for the payment thereof.

The capital stock of each Federal land bank shall be divided into shares of $5 each, and may be subscribed for and held by any individual, firm, or corporation, or by the Government of any State or of the United States.

Stock held by national farm loan associations shall not be transferred or hypothecated, and the certificates therefor shall so state.

Stock owned by the Government of the United States in Federal land banks shall receive no dividends, but all other stock shall share in dividend distributions without preference. Each national farm loan association and the Government of the United States shall be entitled to one vote for each share of stock held by it in deciding all questions at meetings of shareholders, and no other shareholder shall be permitted to vote. Stock owned by the United States shall be voted by the Farm Loan Commissioner, as directed by the Federal Farm Loan Board.

It shall be the duty of the Federal Farm Loan Board, as soon as practicable after the passage of this Act, to open books of subscripttion for the capital stock of a Federal land bank in each Federal land bank district. If within thirty days after the opening of said books any part of the minimum capitalization of $750,000 herein prescribed for Federal land banks shall remain unsubscribed, it shall be the duty of the Secretary of the Treasury to subscribe the balance thereof on behalf of the United States, said subscription to be subject to call in whole or in part by the board of directors of said land bank upon thirty days' notice with the approval of the Federal Farm Loan Board; and the Secretary of the Treasury is hereby authorized and directed to take out shares corresponding to the unsubscribed balance as called, and to pay for the same out of any moneys in the Treasury not otherwise appropriated. Thereafter no stock shall be issued except as hereinafter provided.

After the subscriptions to capital stock by national farm loan associations shall amount to $750,000 in any Federal land bank, said bank shall apply semiannually to the payment and retirement of the shares of stock which were issued to represent the subscriptions to the original capital twenty-five per centum of all sums thereafter subscribed to capital stock until all such original capital stock is retired at par.

At least twenty-five per centum of that part of the capital of any Federal land bank for which stock is outstanding in the name of national farm loan associations shall be held in quick assets, and may consist of cash in the vaults of said land bank, or in deposits in member banks of the Federal reserve system, or in readily marketable securities which are approved under rules and regulations of the Federal Farm Loan Board: *Provided*, That not less than five per centum of such capital shall be invested in United States Government bonds.

GOVERNMENT DEPOSITARIES.

SEC. 6. That all Federal land banks and joint stock land banks organized under this Act, when designated for that purpose by the Secretary of the Treasury, shall be depositaries of public money, except receipts from customs, under such regulations as may be prescribed by said Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositaries of public money and financial agents of the Government, as may be required of them. And the Secretary of the Treasury shall require of the Federal land banks and joint stock land banks thus designated satisfactory security, by the deposit of United States bonds or otherwise, for the safekeeping and prompt payment of the public money deposited with them, and for the faithful performance of their duties as financial agents of the Government. No Government funds deposited under the provisions of this section shall be invested in mortgage loans or farm loan bonds.

NATIONAL FARM LOAN ASSOCIATIONS.

SEC. 7. That corporations, to be known as national farm loan associations, may be organized by persons desiring to borrow money on farm mortgage security under the terms of

this Act. Such persons shall enter into articles of association which shall specify in general terms the object for which the association is formed and the territory within which its operations are to be carried on, and which may contain any other provision, not inconsistent with law, which the association may see fit to adopt for the regulation of its business and the conduct of its affairs. Said articles shall be signed by the persons uniting to form the association, and a copy thereof shall be forwarded to the Federal land bank for the district, to be filed and preserved in its office.

Every national farm loan association shall elect, in the manner prescribed for the election of directors of national banking associations, a board of not less than five directors, who shall hold office for the same period as directors of national banking associations. It shall be the duty of said board of directors to choose in such manner as they may prefer a secretary-treasurer, who shall receive such compensation as said board of directors shall determine. The board of directors shall elect a president, a vice president, and a loan committee of three members.

The directors and all officers except the secretary-treasurer shall serve without compensation, unless the payment of salaries to them shall be approved by the Federal Farm Loan Board. All officers and directors except the secretary-treasurer shall, during their terms of office, be bona fide residents of the territory within which the association is authorized to do business, and shall be shareholders of the association.

It shall be the duty of the secretary-treasurer of every national farm loan association to act as custodian of its funds and to deposit the same in such bank as the board of directors may designate, to pay over to borrowers all sums received for their account from the Federal land bank upon first mortgages as in this Act prescribed, and to meet all other obligations of the association, subject to the orders of the board of directors and in accordance with the by-laws of the association. It shall be the duty of the secretary-treasurer, acting under the direction of the national farm loan association, to collect, receipt for, and transmit to the Federal land bank payments of interest, amortization installments, or principal arising out of loans made through the association. He shall be the

custodian of the securities, records, papers, certificates of stock, and all documents relating to or bearing upon the conduct of the affairs of the association. He shall furnish a suitable surety bond to be prescribed and approved by the Federal Farm Loan Board for the proper performance of the duties imposed upon him under this Act, which shall cover prompt collection and transmission of funds. He shall make a quarterly report to the Federal Farm Loan Board upon forms to be provided for that purpose. Upon request from said board said secretary-treasurer shall furnish information regarding the condition of the national farm loan association for which he is acting, and he shall carry out all duly authorized orders of said board. He shall assure himself from time to time that the loans made through the national farm loan association of which he is an officer are applied to the purposes set forth in the application of the borrower as approved, and shall forthwith report to the land bank of the district any failure of any borrower to comply with the terms of his application or mortgage. He shall also ascertain and report to said bank the amount of any delinquent taxes on land mortgaged to said bank and the name of the delinquent.

The reasonable expenses of the secretary-treasurer, the loan committee, and other officers and agents of national farm loan associations, and the salary of the secretary-treasurer, shall be paid from the general funds of the association, and the board of directors is authorized to set aside such sums as it shall deem requisite for that purpose and for other expenses of said association. When no such funds are available, the board of directors may levy an assessment on members in proportion to the amount of stock held by each, which may be repaid as soon as funds are available, or it may secure an advance from the Federal land bank of the district, to be repaid with interest at the rate of six per centum per annum, from dividends belonging to said association. Said Federal land bank is hereby authorized to make such advance and to deduct such repayment.

Ten or more natural persons who are the owners, or about to become the owners, of farm land qualified as security for a mortgage loan under section twelve of this Act, may unite to form a national farm loan association. They shall

organize subject to the requirements and the conditions specified in this section and in section four of this Act, so far as the same may be applicable: *Provided*, That the board of directors may consist of five members only, and instead of a secretary and a treasurer there shall be a secretary-treasurer, who need not be a shareholder of the association.

When the articles of association are forwarded to the Federal land bank of the district as provided in this section, they shall be accompanied by the written report of the loan committee as required in section ten of this Act, and by an affidavit stating that each of the subscribers is the owner, or is about to become the owner, of farm land qualified under section twelve of this Act as the basis of a mortgage loan; that the loan desired by each person is not more than $10,000, nor less than $100, and that the aggregate of the desired loans is not less than $20,000; that said affidavit is accompanied by a subscription to stock in the Federal land bank equal to five per centum of the aggregate sum desired on mortgage loans; and that a temporary organization of said association has been formed by the election of a board of directors, a loan committee, and a secretary-treasurer who subscribes to said affidavit, giving his residence and post office address.

Upon receipt of such articles of association, with the accompanying affidavit and stock subscription, the directors of said Federal land bank shall send an appraiser to investigate the solvency and character of the applicants and the value of their lands, and shall then determine whether in their judgment a charter should be granted to such association. They shall forward such articles of association and the accompanying affidavit to the Federal Farm Loan Board with their recommendation. If said recommendation is unfavorable, the charter shall be refused.

If said recommendation is favorable, the Federal Farm Loan Board shall thereupon grant a charter to the applicants therefor, designating the territory in which such association may make loans, and shall forward said charter to said applicants through said Federal land bank: *Provided*, That said Federal Farm Loan Board may for good cause shown in any case refuse to grant a charter.

Upon receipt of its charter such national farm loan association shall be authorized and empowered to receive from the Federal land bank of the district sums to be loaned to its members under the terms and conditions of this Act.

Whenever any national farm loan association shall desire to secure for any member a loan on first mortgage from the Federal land bank of its district it shall subscribe for capital stock of said land bank to the amount of five per centum of such loan, such subscription to be paid in cash upon the granting of the loan by said land bank. Such capital stock shall be held by said land bank as collateral security for the payment of said loan, but said association shall be paid any dividends accruing and payable on said capital stock while it is outstanding. Such stock may, in the discretion of the directors, and with the approval of the Federal Farm Loan Board, be paid off at par and retired, and it shall be so paid off and retired upon full payment of the mortgage loan. In such case the national farm loan association shall pay off at par and retire the corresponding shares of its stock which were issued when said land bank stock was issued. The capital stock of a Federal land bank shall not be reduced to an amount less than five per centum of the principal of the outstanding farm loan bonds issued by it.

CAPITAL STOCK OF NATIONAL FARM LOAN ASSOCIATIONS.

SEC. 8. That the shares in national farm loan associations shall be of the par value of $5 each.

Every shareholder shall be entitled to one vote of each share of stock held by him at all elections of directors and in deciding all questions at meetings of shareholders: *Provided*, That the maximum number of votes which may be cast by any one shareholder shall be twenty.

No persons but borrowers on farm land mortgages shall be members or shareholders of national farm associations. Any person desiring to borrow on farm land mortgage through a national farm loan association shall make application for membership and shall prescribe for shares of stock in such farm loan association to an amount equal to five per centum of the face of the desired loan, said subscription to be paid in cash upon the granting of the loan.

If the application for membership is accepted and the loan is granted, the applicant shall, upon full payment therefor, become the owner of one share of capital stock in said loan association for each $100 of the face of his loan, or any major fractional part thereof. Such capital stock shall be paid off at par and retired upon full payment of said loan. Said capital stock shall be held by said association as collateral security for the payment of said loan, but said borrower shall be paid any dividends accruing and payable on said capital stock while it is outstanding.

Every national farm loan association formed under this Act shall by its articles of association provide for an increase of its capital stock from time to time for the purpose of securing additional loans for its members and providing for the issue of shares to borrowers in accordance with the provisions of this Act. Such increases shall be included in the quarterly reports to the Federal Farm Loan Board.

NATIONAL FARM LOAN ASSOCIATIONS.—SPECIAL PROVISIONS.

SEC. 9. That any person whose application for membership is accepted by a national farm loan association shall be entitled to borrow money on farm land mortgage upon filing his application in accordance with section eight and otherwise complying with the terms of this Act whenever the Federal land bank of the district has funds available for that purpose, unless said land bank or the Federal Farm Loan Board shall, in its discretion, otherwise determine.

Any person desiring to secure a loan through a national farm loan association under the provisions of this Act may, at his option, borrow from the Federal land bank through such association the sum necessary to pay for shares of stock subscribed for by him in the national farm loan association, such sum to be made a part of the face of the loan and paid off in amortization payments: *Provided, however*, That such addition to the loan shall not be permitted to increase said loan above the limitation imposed in subsection fifth of section twelve.

Subject to rules and regulations prescribed by the Federal Farm Loan Board, any national farm loan association shall be entitled to retain as a commission from each interest

payment on any loan indorsed by it an amount to be determined by said board not to exceed one-eighth of one per centum semiannually upon the unpaid principal of said loan, any amounts so retained as commissions to be deducted from dividends payable to such farm loan association by the Federal land bank, and to make application to the land bank of the district for loans not exceeding in the aggregate one-fourth of its total stock holdings in said land bank. The Federal land banks shall have power to make such loans to associations applying therefor and to charge interest at a rate not exceeding six per centum per annum.

Shareholders of every national farm loan association shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts, and engagements of such association to the extent of the amount of stock owned by them at the par value thereof, in addition to the amount paid in and represented by their shares.

After a charter has been granted to a national farm loan association, any natural person who is the owner, or about to become the owner, of farm land qualified under section twelve of this Act as the basis of a mortgage loan, and who desires to borrow on a mortgage of such farm land, may become a member of the association by a two-thirds vote of the directors upon subscribing for one share of the capital stock of such association for each $100 of the face of his proposed loan or any major fractional part thereof. He shall at the same time file with the secretary-treasurer his application for a mortgage loan, giving the particulars required by section twelve of this Act.

APPRAISAL.

SEC. 10. That whenever an application for a mortgage loan is made to a national farm loan association, it shall be first referred to the loan committee provided for in section seven of this Act. Said loan committee shall examine the land which is offered as security for the desired loan and shall make a detailed written report signed by all three members, giving the appraisal of said land as determined by them, and such other information as may be required by rules and regulations to be prescribed by the Federal Farm

Loan Board. No loan shall be approved by the director unless said loan committee agrees upon a favorable report.

The written report of said loan committee shall be submitted to the Federal land bank, together with the application for the loan, and the directors of said land bank shall examine said written report when they pass upon the loan application which it accompanies, but they shall not be bound by said appraisal.

Before any mortgage loan is made by any Federal land bank, or joint stock land bank, it shall refer the application and written report of the loan committee to one or more of the land bank appraisers appointed under the authority of section three of this Act, and such appraiser or appraisers shall investigate and make a written report upon the land offered as security for said loan. No such loan shall be made by said land bank unless said written report is favorable.

Forms for appraisal reports for farm loan associations and land banks shall be prescribed by the Federal Farm Loan Board.

Land bank appraisers shall make such examinations and appraisals and conduct such investigations, concerning farm loan bonds and first mortgages, as the Federal Farm Loan Board shall direct.

No borrower under this Act shall be eligible as an appraiser under this section, but borrowers may act as members of a loan committee in any case where they are not personally interested in the loan under consideration. When any member of a loan committee or of a board of directors is interested, directly or indirectly, in a loan, a majority of the board of directors of any national farm loan association shall appoint a substitute to act in his place in passing upon such loan.

POWERS OF NATIONAL FARM LOAN ASSOCIATIONS.

SEC. 11. That every national farm loan association shall have power:

First. To indorse, and thereby become liable for the payment of, mortgages taken from its shareholders by the Federal land bank of its district.

Second. To receive from the Federal land bank of its district funds advanced by said land bank, and to deliver said funds to its shareholders on receipt of first mortgages qualified under section twelve of this Act.

Third. To acquire and dispose of such property, real or personal, as may be necessary or convenient for the transaction of its business.

Fourth. To issue certificates against deposits of current funds bearing interest for not longer than one year at not to exceed four per centum per annum after six days from date, convertible into farm loan bonds when presented at the Federal land bank of the district in the amount of $25 or any multiple thereof. Such deposits, when received, shall be forthwith transmitted to said land bank, and be invested by it in the purchase of farm loan bonds issued by a Federal land bank or in first mortgages as defined by this Act.

RESTRICTIONS ON LOANS BASED ON FIRST MORTGAGES.

SEC. 12. That no Federal land bank organized under this Act shall make loans except upon the following terms and conditions:

First. Said loans shall be secured by duly recorded first mortgages on farm land within the land bank district in which the bank is situated.

Second. Every such mortgage shall contain an agreement providing for the repayment of the loan on an amortization plan by means of a fixed number of annual or semiannual installments sufficient to cover, first, a charge on the loan, at a rate not exceeding the interest rate in the last series of farm loan bonds issued by the land bank making the loan; second, a charge for administration and profits at a rate not exceeding one per centum per annum on the unpaid principal, said two rates combined constituting the interest rate on the mortgage; and, third, such amounts to be applied on the principal as will extinguish the debt within an agreed period, not less than five years nor more than forty years: *Provided*, That after five years from the date upon which a loan is made additional payments in sums of $25 or any multiple thereof for the reduction of the principal, or the pay-

ment of the entire principal, may be made on any regular installment date under the rules and regulations of the Federal Farm Loan Board: *And provided further*, That before the first issue of farm loan bonds by any land bank the interest rate on mortgages may be determined in the discretion of said land bank subject to the provisions and limitations of this Act.

Third. No loan on mortgage shall be made under this Act at a rate of interest exceeding six per centum per annum, exclusive of amortization payments.

Fourth. Such loans may be made for the following purposes and for no other:

(a) To provide for the purchase of land for agricultural uses.

(b) To provide for the purchase of equipment, fertilizers and live stock necessary for the proper and reasonable operation of the mortgaged farm; the term "equipment" to be defined by the Federal Farm Loan Board.

(c) To provide buildings and for the improvement of farm lands; the term "improvement" to be defined by the Federal Farm Loan Board.

(d) To liquidate indebtedness of the owner of the land mortgaged, existing at the time of the organization of the first national farm loan association established in or for the county in which the land mortgaged is situated, or indebtedness subsequently incurred for purposes mentioned in this section.

Fifth. No such loan shall exceed fifty per centum of the value of the land mortgaged and twenty per centum of the value of the permanent, insured improvements thereon, said value to be ascertained by appraisal, as provided in section ten of this Act. In making said appraisal the value of the land for agricultural purposes shall be the basis of appraisal and the earning power of said land shall be a principal factor.

A reappraisal may be permitted at any time in the discretion of the Federal land bank, and such additional loan may be granted as such reappraisal will warrant under the provisions of this paragraph. Whenever the amount of the loan applied for exceeds the amount that may be loaned

under the appraisal as herein limited, such loan may be granted to the amount permitted under the terms of this paragraph without requiring a new application or appraisal.

Sixth. No such loan shall be made to any person who is not at the time, or shortly to become, engaged in the cultivation of the farm mortgaged. In case of the sale of the mortgaged land, the Federal land bank may permit said mortgage and the stock interests of the vendor to be assumed by the purchaser. In case of the death of the mortgagor, his heir or heirs, or his legal representative or representatives, shall have the option, within sixty days of such death, to assume the mortgage and stock interests of the deceased.

Seventh. The amount of loans to any one borrower shall in no case exceed a maximum of $10,000, nor shall any loan be for a less sum than $100.

Eighth. Every applicant for a loan under the terms of this Act shall make application on a form to be prescribed for that purpose by the Federal Farm Loan Board, and such applicant shall state the objects to which the proceeds of said loan are to be applied, and shall afford such other information as may be required.

Ninth. Every borrower shall pay simple interest on defaulted payments at the rate of eight per centum per annum, and by express covenant in his mortgage deed shall undertake to pay when due all taxes, liens, judgments, or assessments which may be lawfully assessed against the land mortgaged. Taxes, liens, judgments, or assessments not paid when due, and paid by the mortgagee, shall become a part of the mortgage debt and shall bear simple interest at the rate of eight per centum per annum. Every borrower shall undertake to keep insured to the satisfaction of the Federal Farm Loan Board all buildings the value of which was a factor in determining the amount of the loan. Insurance shall be made payable to the mortgagee as its interest may appear at time of loss, and, at the option of the mortgagor and subject to general regulations of the Federal Farm Loan Board, sums so received may be used to pay for reconstruction of the buildings destroyed.

Tenth. Every borrower who shall be granted a loan under the provisions of this Act shall enter into an agreement, in

form and under conditions to be prescribed by the Federal Farm Loan Board, that if the whole or any portion of his loan shall be expended for purposes other than those specified in his original application, or if the borrower shall be in default in respect to any condition or covenant of the mortgage, the whole of said loan shall, at the option of the mortgagee, become due and payable forthwith: *Provided*, That the borrower may use part of said loan to pay for his stock in the farm loan association, and the land bank holding such mortgage may permit said loan to be used for any purpose specified in subsection fourth of this section.

Eleventh. That no loan or the mortgage securing the same shall be impaired or invalidated by reason of the exercise of any power by any Federal land bank or national farm loan association in excess of the powers herein granted or any limitations thereon.

Funds transmitted to farm loan associations by Federal land banks to be loaned to its members shall be in current funds, or farm loan bonds, at the option of the borrower.

POWERS OF FEDERAL LAND BANKS.

SEC. 13. That every Federal land bank shall have power, subject to the limitations and requirements of this Act—

First. To issue, subject to the approval of the Federal Farm Loan Board, and to sell farm loan bonds of the kinds authorized in this Act, to buy the same for its own account, and to retire the same at or before maturity.

Second. To invest such funds as may be in its possession in the purchase of qualified first mortgages on farm lands situated within the Federal land bank district within which it is organized or for which it is acting.

Third. To receive and to deposit in trust with the farm loan registrar for the district, to be by him held as collateral security for farm loan bonds, first mortgages upon farm land qualified under section twelve of this Act, and to empower national farm loan associations, or duly authorized agents, to collect and immediately pay over to said land banks the dues, interest, amortization installments and other sums payable under the terms, conditions, and covenants of the mortgages and of the bonds secured thereby.

Fourth. To acquire and dispose of—

(a) Such property, real or personal, as may be necessary or convenient for the transaction of its business, which, however, may be in part leased to others for revenue purposes.

(b) Parcels of land acquired in satisfaction of debts or purchased at sales under judgments, decrees, or mortgages held by it. But no such bank shall hold title and possession of any real estate purchased or acquired to secure any debt due to it, for a longer period than five years, except with the special approval of the Federal Farm Loan Board in writing.

Fifth. To deposit its securities, and its current funds subject to check, with any member bank of the Federal Reserve System, and to receive interest on the same as may be agreed.

Sixth. To accept deposits of securities or of current funds from national farm loan associations holding its shares, but to pay no interest on such deposits.

Seventh. To borrow money, to give security therefor, and to pay interest thereon.

Eighth. To buy and sell United States bonds.

Ninth. To charge applicants for loans and borrowers, under rules and regulations promulgated by the Federal Farm Loan Board, reasonable fees not exceeding the actual cost of appraisal and determination of title. Legal fees and recording charges imposed by law in the State where the land to be mortgaged is located may also be included in the preliminary costs of negotiating mortgage loans. The borrower may pay such fees and charges or he may arrange with the Federal land bank making the loan to advance the same, in which case said expenses shall be made a part of the face of the loan and paid off in amortization payments. Such addition to the loan shall not be permitted to increase said loan above the limitations provided in section twelve.

RESTRICTIONS ON FEDERAL LAND BANKS.

Sec. 14. That no Federal land bank shall have power—

First. To accept deposits of current funds payable upon demand except from its own stockholders, or to transact any banking or other business not expressly authorized by the provisions of this Act.

Second. To loan on first mortgage except through national farm loan associations as provided in section seven and section eight of this Act, or through agents as provided in section fifteen.

Third. To accept any mortgages on real estate except first mortgages created subject to all limitations imposed by section twelve of this Act, and those taken as additional security for existing loans.

Fourth. To issue or obligate itself for outstanding farm loan bonds in excess of twenty times the amount of its capital and surplus, or to receive from any national farm loan association additional mortgages when the principal remaining unpaid upon mortgages already received from such association shall exceed twenty times the amount of its capital stock owned by such association.

Fifth. To demand or receive, under any form or pretense, any commission or charge not specifically authorized in this Act.

AGENTS OF FEDERAL LAND BANKS.

SEC. 15. That whenever, after this Act shall have been in effect one year, it shall appear to the Federal Farm Loan Board that national farm loan associations have not been formed, and are not likely to be formed, in any locality, because of peculiar local conditions, said board may, in its discretion, authorize Federal land banks to make loans on farm lands through agents approved by said board.

Such loans shall be subject to the same conditions and restrictions as if the same were made through national farm loan associations, and each borrower shall contribute five per centum of the amount of his loan to the capital of the Federal land bank, and shall become the owner of as much capital stock of the land bank as such contribution shall warrant.

No agent other than a duly incorporated bank, trust company, mortgage company, or savings institution, chartered by the State in which it has its principal office, shall be employed under the provisions of this section.

Federal land banks may pay to such agents the actual expense of appraising the land offered as security for a loan, examining and certifying the title thereof, and making, exe-

cuting, and recording the mortgage papers; and in addition may allow said agents not to exceed one-half of one per centum per annum upon the unpaid principal of said loan, such commission to be deducted from dividends payable to the borrower on his stock in the Federal land bank.

Actual expenses paid to agents under the provisions of this section shall be added to the face of the loan and paid off in amortization payments subject to the limitations provided in subsection ninth of section thirteen of this Act.

Said agents, when required by the Federal land banks, shall collect and forward to such banks without charge all interest and amortization payments on loans indorsed by them.

Any agent negotiating any such loan shall indorse the same and become liable for the payment thereof, and for any default by the mortgagor, on the same terms and under the same penalties as if the loan had been originally made by said agent as principal and sold by said agent to said land bank, but the aggregate of the unpaid principal of mortgage loans received from any such agent shall not exceed ten times its capital and surplus.

If at any time the district represented by any agent under the provisions of this section shall, in the judgment of the Federal Farm Loan Board, be adequately served by national farm loan associations, no further loans shall be negotiated therein by agents under this section.

JOINT STOCK LAND BANKS.

SEC. 16. That corporations, to be known as joint stock land banks, for carrying on the business of lending on farm mortgage security and issuing farm loan bonds may be formed by any number of natural persons not less than ten. They shall be organized subject to the requirements and under the conditions set forth in section four of this Act, so far as the same may be applicable: *Provided*, That the board of directors of every joint stock land bank shall consist of not less than five members.

Shareholders of every joint stock land bank organized under this Act shall be held individually responsible, equally and ratably, and not one for another, for all contracts,

debts, and engagements of such bank to the extent of the amount of stock owned by them at the par value thereof, in addition to the amount paid in and represented by their shares.

Except as otherwise provided, joint stock land banks shall have the powers of, and be subject to all the restrictions and conditions imposed on, Federal land banks by this Act, so far as such restrictions and conditions are applicable: *Provided, however,* That the Government of the United States shall not purchase or subscribe for any of the capital stock of any such bank; and each shareholder of any such bank shall have the same voting privileges as holders of shares in national banking associations.

No joint stock land bank shall have power to issue or obligate itself for outstanding farm loan bonds in excess of fifteen times the amount of its capital and surplus, or to receive deposits or to transact any banking or other business not expressly authorized by the provisions of this Act.

No joint stock land bank shall be authorized to do business until capital stock to the amount of at least $250,000 has been subscribed, one-half thereof paid in cash and the balance subject to call by the board of directors, and a charter has been issued to it by the Federal Farm Loan Board.

No joint stock land bank shall issue any bonds until after the capital stock is entirely paid up.

Farm loan bonds issued by joint stock land banks shall be so engraved as to be readily distinguished in form and color from farm loan bonds issued by Federal land banks, and shall otherwise bear such distinguishing marks as the Federal Farm Loan Board shall direct.

Joint stock land banks shall not be subject to the provisions of subsection (b) of section seventeen of this Act as to interest rates on mortgage loans or farm loan bonds, nor to the provisions of subsections first, fourth, sixth, seventh, and tenth of section twelve as to restrictions on mortgage loans: *Provided, however,* That no loans shall be made which are not secured by first mortgages on farm lands within the State in which such joint stock land bank has its principal office, or within some one State contiguous to such State. Such joint stock land banks shall be subject to all other re-

strictions on mortgage loans imposed on Federal land banks in section twelve of this Act.

Joint stock land banks shall in no case charge a rate of interest on farm loans exceeding by more than one per centum the rate of interest established for the last series of farm loan bonds issued by them.

Joint stock land banks shall in no case demand or receive, under any form or pretense, any commission or charge not specifically authorized in this Act.

Each joint stock land bank organized under this Act shall have authority to issue bonds based upon mortgages taken by it in accordance with the terms of this Act. Such bonds shall be in form prescribed by the Federal Farm Loan Board, and it shall be stated in such bonds that such bank is organized under section sixteen of this Act, is under Federal supervision, and operates under the provisions of this Act.

POWERS OF FEDERAL FARM LOAN BOARD.

SEC. 17. That the Federal Farm Loan Board shall have power—

(a) To organize and charter Federal land banks, and to charter national farm loan associations and joint stock land banks subject to the provisions of this Act, and in its discretion to authorize them to increase their capital stock.

(b) To review and alter at its discretion the rate of interest to be charged by Federal land banks for loans made by them under the provisions of this Act, said rates to be uniform so far as practicable.

(c) To grant or refuse to Federal land banks, or joint stock land banks, authority to make any specific issue of farm loan bonds.

(d) To make rules and regulations respecting the charges made to borrowers on loans under this Act for expenses in appraisal, determination of title, and recording.

(e) To require reports and statements of condition and to make examinations of all banks or associations doing business under the provisions of this Act.

(f) To prescribe the form and terms of farm loan bonds, and the form, terms, and penal sums of all surety bonds required under this Act and of such other surety bonds as

they shall deem necessary, such surety bonds to cover financial loss as well as faithful performance of duty.

(g) To require Federal land banks to pay forthwith to any Federal land bank their equitable proportion of any sums advanced by said land bank to pay the coupons of any other land bank, basing said required payments on the amount of farm loan bonds issued by each land bank and actually outstanding at the time of such requirement.

(h) To suspend or to remove for cause any district director or any registrar, appraiser, examiner, or other official appointed by said board under authority of section three of this Act, the cause of such suspension or removal to be communicated forthwith in writing by the Federal Farm Loan Board to the person suspended or removed, and in case of a district director to the proper Federal land bank.

(i) To exercise general supervisory authority over the Federal land banks, the national farm loan associations, and the joint stock land banks herein provided for.

(j) To exercise such incidental powers as shall be necessary or requisite to fulfill its duties and carry out the purposes of this Act.

APPLICATIONS FOR FARM LOAN BONDS.

SEC. 18. That any Federal land bank, or joint stock land bank, which shall have voted to issue farm loan bonds under this Act, shall make written application to the Federal Farm Loan Board, through the farm loan registrar of the district, for approval of such issue. With said application said land bank shall tender to said farm loan registrar as collateral security first mortgages on farm lands qualified under the provisions of section twelve, section fifteen, or section sixteen of this Act, or United States Government bonds, not less in aggregate amount than the sum of the bonds proposed to be issued. Said bank shall furnish with such mortgages a schedule containing a description thereof and such further information as may be prescribed by the Federal Farm Loan Board.

Upon receipt of such application said farm loan registrar shall verify said schedule and shall transmit said application and said schedule to the Federal Farm Loan Board, giv-

ing such further information pertaining thereto as he may possess. The Federal Farm Loan Board shall forthwith cause to be made such investigation and appraisement of the securities tendered as it shall deem wise, and it shall grant in whole or in part, or reject entirely, such application.

The Federal Farm Loan Board shall promptly transmit its decision as to any issue of farm loan bonds to the land bank applying for the same and to the farm loan registrar of the district. Said registrar shall furnish, in writing, such information regarding any issue of farm loan bonds as the Federal Farm Loan Board may at any time require.

No issue of farm loan bonds shall be authorized unless the Federal Farm Loan Board shall approve such issue in writing.

ISSUE OF FARM LOAN BONDS.

SEC. 19. That whenever any farm loan registrar shall receive from the Federal Loan Board notice that it has approved by any issue of farm loan bonds under the provisions of section eighteen he shall forthwith take such steps as may be necessary, in accordance with the provisions of this Act, to insure the prompt execution of said bonds and the delivery of the same to the land bank applying therefor.

Whenever the Federal Farm Loan Board shall reject entirely any application for an issue of farm loan bonds, the first mortgages and bonds tendered to the farm loan registrar as collateral security therefor shall be forthwith returned to said land bank by him.

Whenever the Federal Farm Loan Board shall approve an issue of farm loan bonds, the farm loan registrar having the custody of the first mortgages and bonds tendered as collateral security for such issue of bonds shall retain in his custody those first mortgages and bonds which are to be held as collateral security, and shall return to the bank owning the same any of said mortgages and bonds which are not to be held by him as collateral security. The land bank which is to issue said farm loan bonds shall transfer to said registrar, by assignment, in trust, all first mortgages and bonds which are to be held by said registrar as collateral security, said assignment providing for the right of redemption at any

time by payment as provided in this Act and reserving the right of substitution of other mortgages qualified under sections twelve, fifteen, and sixteen of this Act. Said mortgages and bonds shall be deposited in such deposit vault or bank as the Federal Farm Loan Board shall approve, subject to the control of said registrar and in his name as trustee for the bank issuing the farm loan bonds and for the prospective holders of said farm loan bonds.

No mortgage shall be accepted by a farm loan registrar from a land bank as part of an offering to secure an issue of farm loan bonds, either originally or by substitution, except first mortgages made subject to the conditions prescribed in said sections twelve, fifteen, and sixteen.

It shall be the duty of each farm loan registrar to see that the farm loan bonds delivered by him and outstanding do not exceed the amount of collateral security pledged therefor. Such registrar may, in his discretion, temporarily accept, in place of mortgages withdrawn, United States Government bonds or cash.

The Federal Farm Loan Board may, at any time, call upon any land bank for additional security to protect the bonds issued by it.

FORM OF FARM LOAN BONDS.

SEC. 20. That bonds provided for in this Act shall be issued in denominations of $25, $50, $100, $500, and $1,000; they shall run for specified minimum and maximum periods, subject to payment and retirement, at the option of the land bank, at any time after five years from the date of their issue. They shall have interest coupons attached, payable semiannually, and shall be issued in series of not less than $50,000, the amount and terms to be fixed by the Federal Farm Loan Board. They shall bear a rate of interest not to exceed five per centum per annum.

The Federal Farm Loan Board shall prescribe rules and regulations concerning the circumstances and manner in which farm loan bonds shall be paid and retired under the provisions of this Act.

Farm loan bonds shall be delivered through the registrar of the district to the bank applying for the same.

In order to furnish farm loan bonds for delivery at the Federal land banks and joint stock land banks, the Secretary of the Treasury is hereby authorized to prepare suitable bonds in such form, subject to the provisions of this Act, as the Federal Farm Loan Board may approve, such bonds when prepared to be held in the Treasury subject to delivery upon order of the Federal Farm Loan Board. The engraved plates, dies, bed-pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. Any expenses incurred in the preparation, custody, and delivery of such farm loan bonds shall be paid by the Secretary of the Treasury from any funds in the Treasury not otherwise appropriated: *Provided, however*, That the Secretary shall be reimbursed for such expenditures by the Federal Farm Loan Board through assessment upon the farm land banks in proportion to the work executed. They may be exchanged into registered bonds of any amount, and reexchanged into coupon bonds, at the option of the holder, under rules and regulations to be prescribed by the Federal Farm Loan Board.

SPECIAL PROVISIONS OF FARM LOAN BONDS.

SEC. 21. That each land bank shall be bound in all respects by the acts of its officers in signing and issuing farm loan bonds, and by the acts of the Federal Farm Loan Board in authorizing their issue.

Every Federal land bank issuing farm loan bonds shall be primarily liable therefor, and shall also be liable, upon presentation of farm loan bond coupons, for interest payments due upon any farm loan bonds issued by other Federal land banks and remaining unpaid in consequence of the default of such other land banks; and every such bank shall likewise be liable for such portion of the principal of farm loan bonds so issued as shall not be paid after the assets of any such other land banks shall have been liquidated and distributed: *Provided*, That such losses, if any, either of interest or of principal, shall be assessed by the Federal Farm Loan Board against solvent land banks liable therefor in proportion to the amount of farm loan bonds which each may have outstanding at the time of such assessment.

Every Federal land bank shall by appropriate action of its board of directors, duly recorded in its minutes, obligate itself to become liable on farm loan bonds as provided in this section.

Every farm loan bond issued by a Federal land bank shall be signed by its president and attested by its secretary, and shall contain in the face thereof a certificate signed by the Farm Loan Commissioner to the effect that it is issued under the authority of the Federal Farm Loan Act, has the approval in form and issue of the Federal Farm Loan Board, and is legal and regular in all respects; that it is not taxable by National, State, municipal, or local authority; that it is issued against collateral security of United States Government bonds, or indorsed first mortgages on farm lands, at least equal in amount to the bonds issued; and that all Federal land banks are liable for the payment of each bond.

APPLICATION OF AMORTIZATION AND INTEREST PAYMENTS.

SEC. 22. That whenever any Federal land bank, or joint stock land bank, shall receive any interest, amortization or other payments upon any first mortgage or bond pledged as collateral security for the issue of farm loan bonds, it shall forthwith notify the farm loan registrar of the items so received. Said registrar shall forthwith cause such payment to be duly credited upon the mortgage entitled to such credit. Whenever any such mortgage is paid in full, said registrar shall cause the same to be canceled and delivered to the proper land bank, which shall promptly satisfy and discharge the lien of record and transmit such canceled mortgage to the original maker thereof, or his heirs, administrators, executors, or assigns.

Upon written application by any Federal land bank, or joint stock land bank, to the farm loan registrar, it may be permitted, in the discretion of said registrar, to withdraw any mortgages or bonds pledged as collateral security under this Act, and to substitute therefor other similar mortgages or United States Government bonds not less in amount than the mortgages or bonds desired to be withdrawn.

Whenever any farm loan bonds, or coupons or interest payments of such bonds, are due under their terms, they shall

be payable at the land bank by which they were issued, in gold or lawful money, and upon payment shall be duly canceled by said bank. At the discretion of the Federal Farm Loan Board, payment of any farm loan bond or coupon or interest payment may, however, be authorized to be made at any Federal land bank, any joint stock land bank, or any other bank, under rules and regulations to be prescribed by the Federal Farm Loan Board.

When any land bank shall surrender to the proper farm loan registrar any farm loan bonds of any series, canceled or uncanceled, said land bank shall be entitled to withdraw first mortgages and bonds pledged as collateral security for any of said series of farm loan bonds to an amount equal to the farm loan bonds so surrendered, and it shall be the duty of said registrar to permit and direct the delivery of such mortgages and bonds to such land bank.

Interest payments on hypothecated first mortgages shall be at the disposal of the land bank pledging the same, and shall be available for the payment of coupons and the interest of farm loan bonds as they become due.

Whenever any bond matures, or the interest on any registered bond is due, or the coupon on any coupon bond matures, and the same shall be presented for payment as provided in this Act, the full face value thereof shall be paid to the holder.

Amortization and other payments on the principal of first mortgages held by a farm loan registrar as collateral security for the issue of farm loan bonds shall constitute a trust fund in the hands of the Federal land bank or joint stock land bank receiving the same, and shall be applied or employed as follows:

In the case of a Federal land bank—

(a) To pay off farm loan bonds issued by said bank as they mature.

(b) To purchase at or below par farm loan bonds issued by said bank or by any other Federal land bank.

(c) To loan on first mortgages on farm lands within the land bank district, qualified under this Act as collateral security for an issue of farm loan bonds.

(d) To purchase United States Government bonds.

In the case of a joint stock land bank—

(a) To pay off farm loan bonds issued by said bank as they mature.

(b) To purchase at or below par farm loan bonds.

(c) To loan on first mortgages qualified under section sixteen of this Act.

(d) To purchase United States Government bonds.

The farm loan bonds, first mortgages, United States Government bonds, or cash constituting the trust fund aforesaid, shall be forthwith deposited with the farm loan registrar as substituted collateral security in place of the sums paid on the principal of indorsed mortgages held by him in trust.

Every Federal land bank, or joint stock land bank, shall notify the farm loan registrar of the disposition of all payments made on the principal of mortgages held as collateral security for an issue of farm loan bonds, and said registrar is authorized, at his discretion, to order any of such payments, or the proceeds thereof, wherever deposited or however invested, to be immediately transferred to his account as trustee aforesaid.

RESERVES AND DIVIDENDS OF LAND BANKS.

SEC. 23. That every Federal land bank, and every joint stock land bank, shall semiannually carry to reserve account twenty-five per centum of its net earnings until said reserve account shall show a credit balance equal to twenty per centum of the outstanding capital stock of said land bank. Whenever said reserve shall have been impaired, said balance of twenty per centum shall be fully restored before any dividends are paid. After said reserve has reached the sum of twenty per centum of the outstanding capital stock, five per centum of the net earnings shall be annually added thereto. For the period of two years from the date when any default occurs in the payment of the interest, amortization installments, or principal on any first mortgage, by both mortgagor and indorser, the amount so defaulted shall be carried to a suspense account, and at the end of the two-year period specified, unless collected, shall be debited to reserve account.

After deducting the twenty-five per centum or the five per centum hereinbefore directed to be deducted for credit to reserve account, any Federal land bank or joint stock land bank may declare a dividend to shareholders of the whole or any part of the balance of its net earnings. The reserves of land banks shall be invested in accordance with rules and regulations to be prescribed by the Federal Farm Loan Board.

RESERVE AND DIVIDENDS OF NATIONAL FARM LOAN ASSOCIATIONS.

SEC. 24. That every national farm loan association shall, out of its net earnings, semiannually carry to reserve account a sum not less than ten per centum of such net earnings until said reserve account shall show a credit balance equal to twenty per centum of the outstanding capital stock of said association.

Whenever said reserve shall have been impaired, said credit balance of twenty per centum shall be fully restored before any dividends are paid. After said reserve has reached said sum of twenty per centum, two per centum of the net earnings shall be annually added thereto.

After deducting the ten per centum or the two per centum hereinbefore directed to be credited to reserve account, said association may, at its discretion, declare a dividend to shareholders of the whole or any part of the balance of said net earnings.

The reserves of farm loan associations shall be invested in accordance with rules and regulations to be prescribed by the Federal Farm Loan Board.

Whenever any farm loan association shall be voluntarily liquidated a sum equal to its reserve account as herein required shall be paid to and become the property of the Federal land bank in which such loan association may be a shareholder.

DEFAULTED LOANS.

SEC. 25. That if there shall be default under the terms of any indorsed first mortgage held by a Federal land bank under the provisions of this Act, the national farm loan association or agent through which said mortgage was received by

said Federal land bank shall be notified of said default. Said association or agent may thereupon be required, within thirty days after such notice, to make good said default, either by payment of the amount unpaid thereon in cash, or by the substitution of an equal amount of farm loan bonds issued by said land bank, with all unmatured coupons attached.

EXEMPTION FROM TAXATION.

SEC. 26. That every Federal land bank and every national farm loan association, including the capital and reserve or surplus therein and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes upon real estate held, purchased, or taken by said bank or association under the provisions of section eleven and section thirteen of this Act. First mortgages executed to Federal land banks, or to joint stock land banks, and farm loan bonds issued under the provisions of this Act, shall be deemed and held to be instrumentalities of the Government of the United States, and as such they and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation.

Nothing herein shall prevent the shares in any joint stock land bank from being included in the valuation of the personal property of the owner or holder of such shares, in assessing taxes imposed by authority of the State within which the bank is located; but such assessment and taxation shall be in manner and subject to the conditions and limitations contained in section fifty-two hundred and nineteen of the Revised Statutes with reference to the shares of national banking associations.

Nothing herein shall be construed to exempt the real property of Federal and joint stock land banks and national farm loan associations from either State, county, or municipal taxes, to the same extent, according to its value, as other real property is taxed.

INVESTMENT IN FARM LOAN BONDS.

SEC. 27. That farm loan bonds issued under the provisions of this Act by Federal land banks or joint stock land banks

shall be a lawful investment for all fiduciary and trust funds, and may be accepted as security for all public deposits.

Any member bank of the Federal Reserve System may buy and sell farm loan bonds issued under the authority of this Act.

Any Federal reserve bank may buy and sell farm loan bonds issued under this Act to the same extent and subject to the same limitations placed upon the purchase and sale by said banks of State, county, district, and municipal bonds under subsection (b) of section fourteen of the Federal Reserve Act approved December twenty-third, nineteen hundred and thirteen.

EXAMINATIONS.

SEC. 28. That the Federal Farm Loan Board shall appoint as many land bank examiners as in its judgment may be required to make careful examinations of the banks and associations permitted to do business under this Act.

Said examiners shall be subject to the same requirements, responsibilities and penalties as are applicable to national bank examiners under the national bank Act, the Federal Reserve Act and other provisions of law. Whenever directed by the Federal Farm Loan Board, said examiners shall examine the condition of any national farm loan association and report the same to the Farm Loan Commissioner. They shall examine and report the condition of every Federal land bank and joint stock land bank at least twice each year.

Said examiners shall receive salaries to be fixed by the Federal Farm Loan Board.

DISSOLUTION AND APPOINTMENT OF RECEIVERS.

SEC. 29. That upon receiving satisfactory evidence that any national farm loan association has failed to meet its outstanding obligations of any description the Federal Farm Loan Board may forthwith declare such association insolvent and appoint a receiver and require of him such bond and security as it deems proper: *Provided*, That no national farm loan association shall be declared insolvent by said board until the total amount of defaults of current interest

and amortization installments on loans indorsed by national farm loan associations shall amount to at least $150,000 in the Federal land bank district, unless such association shall have been in default for a period of two years. Such receiver, under the direction of the Federal Farm Loan Board, shall take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to it, and, with the approval of the Federal Farm Loan Board, or upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like approval or order, may sell all the real and personal property of such association, on such terms as the Federal Farm Loan Board or said court shall direct.

Such receiver shall pay over all money so collected to the Treasurer of the United States, subject to the order of the Federal Farm Loan Board, and also make report to said board of all his acts and proceedings. The Secretary of the Treasury shall have authority to deposit at interest any money so received.

Upon default of any obligation, Federal land banks and joint stock land banks may be declared insolvent and placed in the hands of a receiver by the Federal Farm Loan Board, and proceedings shall thereupon be had in accordance with the provisions of this section regarding national farm loan associations.

If any national farm loan association shall be declared insolvent and a receiver shall be appointed therefor by the Federal Farm Loan Board, the stock held by it in the Federal land bank of its district shall be canceled without impairment of its liability and all payments on such stock, with accrued dividends, if any, since the date of the last dividend shall be first applied to all debts of the insolvent farm loan association to the Federal land bank and the balance, if any, shall be paid to the receiver of said farm loan association: *Provided*, That in estimating said debts contingent liabilities incurred by national farm loan associations under the provisions of this Act on account of default of principal or interest of indorsed mortgages shall be estimated and included as a debt, and said contingent liabilities shall be determined by agreement between the

receiver and the Federal land bank of the district, subject to the approval of the Federal Farm Loan Board, and if said receiver and said land bank can not agree, then by the decision of the Farm Loan Commissioner, and the amount thus ascertained shall be deducted in accordance with the provisions of this section from the amount otherwise due said national farm loan association for said canceled stock. Whenever the capital stock of a Federal land bank shall be reduced, the board of directors shall cause to be executed a certificate to the Federal Farm Loan Board, showing such reduction of capital stock, and, if said reduction shall be due to the insolvency of a national farm loan association, the amount repaid to such association.

No national farm loan association, Federal land bank or joint stock land bank shall go into voluntary liquidation without the written consent of the Federal Farm Loan Board, but national farm loan associations may consolidate under rules and regulations promulgated by the Federal Farm Loan Board.

STATE LEGISLATION.

SEC. 30. That it shall be the duty of the Farm Loan Commissioner to make examination of the laws of every State of the United States and to inform the Federal Farm Loan Board as rapidly as may be whether in his judgment the laws of each State relating to the conveying and recording of land titles, and the foreclosure of mortgages or other instruments securing loans, as well as providing homestead and other exemptions and granting the power to waive such exemptions as respects first mortgages, are such as to assure the holder thereof adequate safeguards against loss in the event of default on loans secured by any such mortgages.

Pending the making of such examination in the case of any State, the Federal Farm Loan Board may declare first mortgages on farm lands situated within such State ineligible as the basis for an issue of farm loan bonds; and if said examination shall show that the laws of any such State afford insufficient protection to the holder of first mortgages of the kinds provided in this Act, said Federal Farm Loan Board may declare said first mortgages on land situated in

such State ineligible during the continuance of the laws in question. In making his examination of the laws of the several States and forming his conclusions thereon said Farm Loan Commissioner may call upon the office of the Attorney General of the United States for any needed legal advice or assistance, or may employ special counsel in any State where he considers such action necessary.

At the request of the Executive of any State the Federal Farm Loan Board shall prepare a statement setting forth in what respects the requirements of said board can not be complied with under the existing laws of such State.

PENALTIES.

SEC. 31. That any applicant for a loan under this Act who shall knowingly make any false statement in his application for such loan, and any member of a loan committee or any appraiser provided for in this Act who shall willfully overvalue any land offered as security for loans under this Act, shall be punished by a fine of not exceeding $5,000, or by imprisonment not exceeding one year, or both. Any examiner appointed under this Act who shall accept a loan or gratuity from any land bank or national farm loan association examined by him, or from any person connected with any such bank or association in any capacity, shall be punished by a fine of not exceeding $5,000, or by imprisonment not exceeding one year, or both, and may be fined a further sum equal to the money so loaned or gratuity given, and shall forever thereafter be disqualified from holding office as an examiner under the provisions of this Act. No examiner, while holding such office, shall perform any other service for compensation for any bank or banking or loan association, or for any person connected therewith in any capacity.

Any person who shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting any bond, coupon, or paper in imitation of, or purporting to be in imitation of, the bonds or coupons issued by any land bank or national farm loan association, now or hereafter authorized and acting under the laws of the United States; or any person who shall pass, utter, or pub-

lish, or attempt to pass, utter, or publish any false, forged, or counterfeited bond, coupon, or paper purporting to be issued by any such bank or association, knowing the same to be falsely made, forged, or counterfeited; or whoever shall falsely alter, or cause or procure to be falsely altered, or shall willingly aid or assist in falsely altering any such bond, coupon, or paper, or shall pass, utter, or publish as true any falsely altered or spurious bond, coupon, or paper issued, or purporting to have been issued, by any such bank or association, knowing the same to be falsely altered or spurious, shall be punished by a fine of not exceeding $5,000 or by imprisonment not exceeding five years, or both.

Other than the usual salary or director's fee paid to any officer, director, or employee of a national farm loan association, a Federal land bank, or a joint stock land bank, and other than a reasonable fee paid by such association or bank to any officer, director, attorney, or employee for services rendered, no officer, director, attorney, or employee of an association or bank organized under this Act shall be a beneficiary of or receive, directly or indirectly, any fee, commission, gift, or other consideration for or in connection with any transaction or business of such association or bank. No land bank or national farm loan association organized under this Act shall charge or receive any fee, commission, bonus, gift, or other consideration not herein specifically authorized. No examiner, public or private, shall disclose the names of borrowers to other than the proper officers of a national farm loan association or land bank without first having obtained express permission in writing from the Farm Loan Commissioner or from the board of directors of such association or bank, except when ordered to do so by a court of competent jurisdiction or by direction of the Congress of the United States, or of either House thereof, or any committee of Congress or of either House duly authorized. Any person violating any provision of this paragraph shall be punished by a fine of not exceeding $5,000 or by imprisonment not exceeding one year, or both.

Any person connected in any capacity with any national farm loan association, Federal land bank, or joint stock land bank, who embezzles, abstracts, or willfully misapplies any moneys, funds, or credits thereof, or who without authority

from the directors draws any order, assigns any note, bond, draft, mortgage, judgment, or decree thereof, or who makes any false entry in any book, report, or statement of such association or land bank with intent in either case to defraud such institution or any other company, body politic or corporate, or any individual person, or to deceive any officer of a national farm loan association or land bank or any agent appointed to examine into the affairs of any such association or bank, and every person who with like intent aids or abets any officer, clerk, or agent in any violation of this section, shall be punished by a fine of not exceeding $5,000 or by imprisonment not exceeding five years, or both.

Any person who shall deceive, defraud, or impose upon, or who shall attempt to deceive, defraud, or impose upon, any person, firm, or corporation by making any false pretense or representation regarding the character, issue, security, or terms of any farm loan bond, or coupon, issued under the terms of this Act; or by falsely pretending or representing that any farm loan bond, or coupon, issued under the terms of this Act by one class of land banks is a farm loan bond, or coupon, issued by another class of banks; or by falsely pretending or representing that any farm loan bond, or coupon, issued under the terms of this Act, or anything contained in said farm loan bond, or coupon, is anything other than, or different from, what it purports to be on the face of said bond or coupon, shall be fined not exceeding $500 or imprisoned not exceeding one year, or both.

The Secretary of the Treasury is hereby authorized to direct and use the Secret Service Division of the Treasury Department to detect, arrest, and deliver into custody of the United States marshal having jurisdiction, any person or persons violating any of the provisions of this section.

GOVERNMENT DEPOSITS.

SEC. 32. That the Secretary of the Treasury is authorized, in his discretion, upon the request of the Federal Farm Loan Board, to make deposits for the temporary use of any Federal land bank, out of any money in the Treasury not otherwise appropriated. Such Federal land bank shall issue to

the Secretary of the Treasury a certificate of indebtedness for any such deposit, bearing a rate of interest not to exceed the current rate charged for other Government deposits, to be secured by farm loan bonds or other collateral, to the satisfaction of the Secretary of the Treasury. Any such certificate shall be redeemed and paid by such land bank at the discretion of the Secretary of the Treasury. The aggregate of all sums so deposited by the Secretary of the Treasury shall not exceed the sum of $6,000,000 at any one time.

ORGANIZATION EXPENSES.

SEC. 33. That the sum of $100,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Federal Farm Loan Board, for the purpose of carrying into effect the provisions of this Act, including the rent and equipment of necessary offices.

LIMITATION OF COURT DECISIONS.

SEC. 34. That if any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

REPEALING CLAUSE.

SEC. 35. That all Acts or parts of Acts inconsistent with this Act are hereby repealed, and this Act shall take effect upon its passage. The right to amend, alter, or repeal this Act is hereby expressly reserved.

Approved, July 17, 1916.

EXHIBIT B.

An Act Amending section thirty-two, Federal Farm Loan Act, approved July seventeenth, nineteen hundred and sixteen.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Farm Loan Act, approved July seventeenth, nineteen hundred and sixteen, is hereby amended by adding at the end of section thirty-two the following:

"The Secretary of the Treasury is further authorized, in his discretion, upon the request of the Federal Farm Loan Board, from time to time during the fiscal years ending June thirtieth, nineteen hundred and eighteen, and June thirtieth, nineteen hundred and nineteen, respectively, to purchase at par and accrued interest with any funds in the Treasury not otherwise appropriated, from any Federal land bank, farm loan bonds issued by such bank.

"Such purchases shall not exceed the sum of $100,000,000 in either of such fiscal years. Any Federal land bank may at any time repurchase at par and accrued interest for the purpose of redemption or resale any bonds so purchased from it and held in the Treasury.

"The bonds of any Federal land bank so purchased by the Secretary of the Treasury, and held in the Treasury under the provisions of this amendment one year after the termination of the pending war, shall upon thirty days' notice from the Secretary of the Treasury be redeemed or repurchased by such bank at par and accrued interest.

"The temporary organization of any Federal land bank as provided in section four of said Federal Farm Loan Act shall be continued so long as any farm loan bonds purchased from it under the provisions of this amendment shall be held by the Treasury, and until the subscriptions to stock in such bank by national farm loan associations shall equal the amount of stock held in such bank by the Government of the United States."

SEC. 2. That all Acts or parts of Acts inconsistent with this Act are hereby repealed, and this Act shall take effect upon its passage. The right to amend, alter, or repeal this Act is hereby expressly reserved.

Approved, January 18, 1918.

EXHIBIT C.

Farm mortgage loans—average rates for interest and commission.

Geographic division and State.	Average interest rate.	Average annual commission.[1]	Interest plus commission.
New England:			
Maine	6.1	0.1	6.2
New Hampshire	5.3	(2)	5.3
Vermont	5.6	(2)	5.6
Massachusetts	5.6	(2)	5.6
Rhode Island	5.7	.2	5.9
Connecticut	5.7	(2)	5.7
Middle Atlantic:			
New York	5.5	.1	5.6
New Jersey	5.5	.3	5.8
Pennsylvania	5.5	.3	5.8
East North Central:			
Ohio	5.9	.2	6.1
Indiana	5.8	.4	6.2
Illinois	5.7	.3	6.0
Michigan	6.3	.3	6.6
Wisconsin	5.7	.1	5.8
West North Central:			
Minnesota	6.3	.5	6.8
Iowa	5.6	.3	5.9
Missouri	6.2	.6	6.8
North Dakota	6.9	1.8	8.7
South Dakota	7.0	1.0	8.0
Nebraska	6.3	.8	7.1
Kansas	6.1	.8	6.9
South Atlantic:			
Delaware	5.6	(2)	5.6
Maryland	5.7	.4	6.1
Virginia	6.1	.7	6.8
West Virginia	6.2	.2	6.4
North Carolina	6.3	1.4	7.7
South Carolina	7.8	.6	8.4
Georgia	7.6	1.1	8.7
Florida	9.0	.6	9.6
East South Central:			
Kentucky	6.7	.4	7.1
Tennessee	7.3	.6	7.9
Alabama	8.7	.7	9.4
Mississippi	8.0	.5	8.5
West South Central:			
Arkansas	9.0	.6	9.6
Louisiana	8.2	.4	8.6
Oklahoma	6.6	1.8	8.4
Texas	8.4	.6	9.0

[1] Where the report shows a commission paid once for all in advance on a loan running more than one year, the equivalent annual commission is used.
[2] Less than one-tenth of 1 per cent.

Farm mortgage loans—average rates for interest and commission—Con.

Geographic division and State.	Average interest rate.	Average annual commission.	Interest plus commission.
Mountain:			
Montana	8.4	1.6	10.0
Idaho	8.2	.7	8.9
Wyoming	9.2	.8	10.0
Colorado	8.3	.6	8.9
New Mexico	9.7	.8	10.5
Arizona	9.1	.3	9.4
Utah	8.6	.4	9.0
Pacific:			
Washington	7.9	.8	8.7
Oregon	7.7	.3	8.0
California	7.4	.2	7.6

No amortization loans.
Commissions on mortgage renewals.
High interest rates.
Even so, no sufficient mortgage credit.

EXHIBIT D.

TABLE 1.—*Number and percentage of farms of specified tenure in the United States, 1880 to 1910.*

[From decennial census of agriculture.]

Year.	Number of farms operated by—		Percentage of farms operated by—	
	Owners.[1]	Tenants.	Owners.[1]	Tenants.
1880[2]	2,984,306	1,024,601	74.5	25.5
1890	3,269,728	1,294,913	71.6	28.4
1900	3,712,408	2,024,964	64.7	35.3
1910	4,006,826	2,354,676	63.0	37.0

[1] Includes farms operated by owners, part owners, owners and tenants, and managers.

[2] Not including farms with an area of less than 3 acres which reported the sale of less than $5 worth of products in the census year.

TABLE 2.—*Urban and rural population in the United States, 1880 to 1910.*

[Urban population resides in incorporated places of 2,500 inhabitants and over.]

Year.	Number.		Percentage.	
	Urban.	Rural.	Urban.	Rural.
1880	14,772,438	35,383,345	29.5	70.5
1890	22,720,223	40,227,491	36.1	63.9
1900	30,797,185	45,197,390	40.5	59.5
1910	42,623,383	49,398,883	46.3	53.7

NOTE.—Quotation from abstract of the Thirteenth Census.

TABLE 3.—*Number and percentage of farms in the United States mortgaged and free from mortgage, 1890 to 1910.*

[From decennial census.]

Year.	Number.		Percentage of owned farms—	
	Mortgaged.	Free from mortgage.	Mortgaged.	Free from mortgage.
1890	886,957	2,255,789	28.2	71.8
1900	1,127,749	2,510,654	31.1	68.9
1910	1,327,439	2,621,283	33.6	66.4

NOTE.—The figures are for farm families in 1890 and for farms in 1900 and 1910.

EXHIBIT E.

RURAL CREDIT SYSTEM IN EUROPE.

SUMMARY.

Germany.—The rural credit organizations of Germany from which the systems of other European countries have been largely modeled may be divided into two classes, the one represented by the Landschaften, Government controlled institutions, which loan money to their members on mortgage by issuing them bonds, which they in turn sell, and the Raiffeisen societies, which are not under Government control, which accept deposits from their members and borrow from a central institution and loan it to their members, engaging also in other cooperative rural enterprises.

France.—The Government has subsidized the Credit Foncier, which makes short and long term loans on mortgage, and whose purpose it is to assist in the repayment of the mortgaged indebtedness of France. Local credit associations have also been formed which are intermediaries between the regional banks and their members. The Bank of France advances money to these local associations without interest.

England.—Government aid has been given to Irish peasants by advancing them money at low rates of interest to assist in the purchase of land. Private rural credit is provided by the Agricultural Society organized under the companies' act, which society also engages in other forms of rural cooperation.

Russia.—The Government assist the rural credit through the Peasants Land Bank, which makes long-time loans on mortgages at low rates of interest to peasants to enable them to purchase land. Private local credit associations modeled after the Raiffeisen banks of Germany also exist, but these charge much higher rates of interest.

Italy.—Local cooperative credit associations obtain money from the larger banks and loan this to their members. Mortgage loans may also be made from some of the larger banks, the Government authorizing them to engage in this business.

Switzerland.—The Canton banks, whose capital is supplied by the Government, make loans on real estate. Private banks do the same business, but their interest rates are higher. Institutions on the Raiffeisen plan have also been organized.

Denmark.—Government aid is furnished through two Small Holders' Credit Associations, to which the Government has appropriated money to be loaned to small farmers. There also exist societies similar to the Landschaften in Germany but without Government supervision or aid.

GERMANY.

THE LANDSCHAFTEN SYSTEM OF PRUSSIA.

The landschaften are mutual loan associations organized in the various agricultural districts. The landowners of a

district are formed into an organization called a landschaft. Each member is entitled to credit according to the amount of land he owns and guarantees the obligations of the landschaft.

The landschaften issue bonds payable to bearer secured by the general credit and property of the landschaften and the guaranty of the members. These bonds are bought and sold in the money market.

Loans are made to the members by issuing them bonds which they sell to raise money. The members give in return their promise to pay and a first mortgage on their land. Bonds may be issued to two-thirds of the value of the land. The "mortgagee" pays 3½ per cent interest plus 1½ to 2 per cent per year amortization.

The landschaften possessed no capital to begin with but have built up sinking funds from the amortization payments. The following table indicates the extent of their operations from the time of organization in 1796 up to 1911–12:

		Marks.
Mortgage loans and bonds issued		8,000,000,000
At 3 per cent	420,000,000	
At 3½ per cent	2,000,000,000	
At 4 per cent	500,000,000	
Sinking fund collected		192,000,000
Remaining guarantee and reserve fund		50,000,000
Capital saved from administration cost		56,000,000

The Landschaften are under State supervision, at their head being a general Landschaften board whose members are public authorities. Within prescribed limits, however, the Landschaften are autonomous.

Since their organization there have been no failures, no foreclosures or other litigation, no repudiation, and no depreciation or shrinkage of security. Landschaften debentures always find a ready market and are considered safe investments for savings banks.

RAIFFEISEN BANKS AND SOCIETIES.

In addition to the Landschaften there exist in Germany cooperative credit societies which do not receive any Government aid. These owe their existence largely to the ef-

forts of the man from whom they derive their name. The two functions which enter into the organization of credit on Raiffeisen lines are the organization of the rural population into local credit societies and the organization of these societies as a collective body federated into the Agricultural Central Loan Bank for Germany.

The local credit societies are organizations of unlimited liability in their members. Money is raised by savings deposits and from loans obtained from the Central organization. The purpose of the societies is to provide money for its members, either in the form of specific loans, or current accounts, and also to provide a means for cooperative buying and selling. Adequate security is required for all loans and the object for which the money is to be used is taken into consideration. The loans are repayable after a long or short period depending upon circumstances.

The Agricultural Central Loan Bank was organized in 1876 by Raiffeisen. It is a joint-stock company and its purpose is to carry on a banking and credit business and to assist in the collective purchase and sale of agricultural requirements and products. Its funds are raised by the issue of shares by deposits received and by the issue of long-time debentures. The money so raised is applied in credits given on current accounts to local cooperative banks and societies and for discounting acceptances in conformity with the practice of the Imperial Bank.

In 1877 Raiffeisen organized the General Union Rural Societies for Germany embracing all sorts of rural cooperative societies for the purpose of aiding them in carrying out their work.

FRANCE.

CREDIT FONCIER.

This is a Government subsidized and controlled bank which has a monopoly for 25 years. The Government control is exercised through the appointment of a governor and two vice governors.

The bank does two kinds of business—(1) Loans to municipalities, and (2) mortgage loans. Mortgage loans are made on town or agricultural property and take three forms:

(*a*) Short term loans (9 years or less) on mortgages. These loans are not repayable by amortization, and the mortgages can not be redeemed until the expiration of the term.

(*b*) Long term mortgage loans (10 to 70 years). These are payable by amortization at a rate of 1½ per cent per year, and can be paid in full before the expiration of the term.

(*c*) Current accounts on mortgage guarantees. A line of credit is given on mortgage security which may be used like a banking account.

The interest on these loans varies from 4 to 4.65 per cent. The capital is raised by the banks by issue of bonds repayable by annuities in the maximum period of 75 years.

The purpose of the Credit Foncier is to provide for the repayment of the mortgaged indebtedness of France. Since its origin it has loaned more than 9,000,000,000 francs and in 1913 had outstanding loans to the amount of 5,000,000,000 francs.

CREDIT AGRICOLE.

A local agricultural credit bank is formed by the farmers in one community organizing, raising a small initial capital and depositing it with the regional bank. This bank then furnishes the money required for loans to the members on the deposit of suitable security. Loans are made on mortgage or on the pledge of agricultural products.

The associations are subsidized by the Government in that money is supplied by the Bank of France without interest.

BANK OF FRANCE.

The Bank of France as a rediscount bank is not of great advantage to farmers, since farmers are not "traders," and the rediscount machinery is organized primarily for "traders."

The bank has helped in the advance of agriculture, however, first by the advance of 40,000,000 francs to the Government for the purposes of agricultural credit, repayable without interest, and also pay an annual grant in proportion to its profits, which usually is considerably in excess of 2,000,000 francs. Ninety million francs have been advanced in this way.

ENGLAND.

The English Government has bought up many Irish estates and sold them direct to Irish farmers on long-time payments at a low rate of interest, and appropriations for this purpose have amounted to $2,000,000,000.

In 1913 the English Government appropriated $500,000,000 to be loaned to Irish peasants at 2½ per cent for 68 years. To the interest is added an amortization payment of three-fourths per cent.

THE AGRICULTURAL SOCIETY.

This society was organized in England under the companies act. Its purpose is cooperative buying, selling, transportation, agriculture, insurance, and agricultural cooperative credit. It is primarily a private institution, but it has received small appropriations from the Government at various times.

RUSSIA.

THE PEASANTS' LAND BANK.

This is a Government bank which makes loans to peasants on mortgages. The loans run from 40 to 60 years with an amortization payment each year plus 4½ per cent interest. Loans are made to the extent of 90 per cent of the value of the land. They are used by the peasants chiefly as a means to purchase land, and since the bank's organization in 1883 some 20,000,000 small farms worth more than $1,000,000,000 have been bought by peasants in this manner.

LOCAL CREDIT ASSOCIATIONS.

There are two types of credit associations which have grown up in Russia—the loan and saving association and credit association—the chief distinction being that the former has shares which its members must purchase and the latter has not, they being modeled very closely after the Raiffeisen banks of Germany. The sources of money for both are deposits, the loans from Government and postal savings banks, and the sale of shares. The interest charged by these associations is rather high, from 9 to 11 per cent.

ITALY.

Government assistance in the matter of agricultural credit in Italy has taken the form of authorizing the savings bank of the Bank of Naples to engage in the rural credit business, and in creating a special credit rural section of the Bank of Sicily. Credit is provided by these institutions through the channels of local organizations, preferably cooperative in form, and consists in rediscounting bills drawn by these intermediate credit institutions against farmers and in making loans to these institutions.

The local associations obtain their working capital from deposits by members and from the above-mentioned banks. They make loans on land and on personal credit both for the purpose of permanent improvements and to provide a working capital.

The Government has also authorized certain other banks, such as the banks of Milan and Bologna, to make long-time loans on mortgages.

SWITZERLAND.

CANTON BANKS.

The Government helps agricultural credit through canton banks, which in 1913 had been established in at least half the cantons of Switzerland. These are Government institutions whose capital is furnished by the cantons either by direct appropriation out of the treasury or by the issue of Government bonds, the interest on which is paid through the canton banks. The bankers pay about 4 per cent for this money. In addition, the bank is a depository for savings.

The bank makes loans on real estate, both town and agricultural, from one-third to three-fourths its value. These loans are often on paper maturing six months after demand, but the banks do not call the loans if the interest is paid up. Amortization loans are also made, a one-half per cent annual amortization payment being required. The interest on these mortgage loans averages 4½ per cent.

In addition, these banks loan money to communities on securities for the purpose of building public works, and make general loans secured by collateral or indorsements.

Private banks in Switzerland conduct the same kind of business as the canton banks, but their interest rates are higher.

RAIFFEISEN BANKS.

These associations are local and cooperative in character, and secure capital by deposit by their members, who are unlimitably liable for the obligations of the association. Loans are made both on personal indorsed notes or on mortgage, and the interest charged is 4½ to 4¾ per cent.

DENMARK.

SMALL FARMERS' CREDIT.

The Government has appropriated some 4,000,000 crowns to be loaned to small farmers who wish to purchase land. The interest is 3 per cent, and money is loaned up to 90 per cent of the land value. The privilege of using this fund is limited to persons who have worked for other farmers for at least four years.

SMALL HOLDERS' CREDIT ASSOCIATIONS.

The only credit associations aided by the Government are two "small holders' credit associations" founded in 1880. These may make small loans only, up to 60 per cent of the value of farm land. The Government bears the expense of valuation and guarantees the quarterly payment of interest and amortization.

DANISH CREDIT SOCIETIES.

A number of societies have been formed which do not receive Government aid but which operate very much as do the Landschaften in Germany. These loans are made by the issue of notes or bonds to members, who in turn dispose of them on the exchange.

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